

PO-CH/NL/0468 PT A

Part. A

**SECRET**

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Begins: 9/2/89

Ends: 16/3/89

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PO CH | NL | 0468

PT.A

Chancellor's (Lawson) Papers:

The Lord Chancellor's Salary Order

DD's: 25 Years

*D. Adair*

14/2/96

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PT.A

# CABINET OFFICE PAPER

The following Cabinet Office papers have been taken off the file. If you require access to these papers please contact the Cabinet Office.

Reference	Date Of Paper
CC (89)	18/2/89

SECRET AND PERSONAL

FROM: J de BERKER  
DATE: 9 February 1989

- 1. MS SEAMMEN
- 2. CHANCELLOR

cc Chief Secretary  
 Sir Peter Middleton  
 Dame Anne Mueller  
 Mr Kelly  
 Mrs Case

*Jd*  
*Ch. OK?*  
*2/9/89*

THE LORD CHANCELLOR'S SALARY ORDER

1. One of the points Ministers are invited to decide at next Tuesday's (14 February) meeting on Review Bodies is whether in principle, and subject to further work on the detail, the proposed Bill on Parliamentary Pensions scheduled for next session should remove the requirement for an annual affirmative resolution to determine the Lord Chancellor's salary. We understand that the Prime Minister is in favour of avoiding an annual order.

2. The Lord Chancellor's Department have provided a short paper on the Lord Chancellor's salary order which will probably appear as an Annex to the paper on Review Bodies. But it will fall to us to brief the Lord President. He is due to attend the meeting on Tuesday, and if the procedure is to be changed, it will fall to him to steer the legislation through the House with our support.

3. A draft brief for the Lord President is attached. We would be grateful for any suggestions you may wish to make.

DE BERKER  
 →  
 CA  
 9/2

*1. Draft Annex to  
 para 4, which is based on  
 the existing law. Ministers  
 are to be invited to decide on  
 whether to pass a resolution  
 so, such a resolution  
 will be put on foot  
 on occasion of debate  
 in House of Commons.  
 The Bill is to be  
 introduced by the  
 Secretary of State  
 on the occasion of  
 the debate on the  
 Bill.*

*Jonathan De BERKER*

SECRET AND PERSONAL

DRAFT

FROM: J de BERKER  
DATE: 9 February 1989

LORD PRESIDENT

cc Chancellor  
Chief Secretary  
Sir Peter Middleton  
Dame Anne Mueller  
Mr Kelly  
Mrs Case

THE LORD CHANCELLOR'S SALARY ORDER

1. One of the points Ministers are invited to decide at the meeting on Review Body recommendations next Tuesday is whether the proposed legislation on Parliamentary Pensions and Ministerial Severance pay should remove the need for an annual affirmative resolution to determine the Lord Chancellor's salary. We advise you to agree to this. A short paper has been prepared by the Lord Chancellor's Department which will probably appear as an Annex to the paper for the meeting. A copy is attached.

*subject to further work,  
in principle and*

Legal Position

2. The need for an annual order could be avoided by amending the 1975 Ministerial and other Salaries Act so that the salary may be determined administratively by reference to that of the Lord Chief Justice whose salary is determined in the light of the recommendations of the TSRB. Following the recommendations of the TSRB in 1983 the Lord Chancellor has a £2,000 salary lead over the Lord Chief Justice. The legislation could also make provision to vary the differential subject to an affirmative order. This would avoid an annual debate, and it would only be necessary to

SECRET AND PERSONAL

return to the House when we wanted to change the salary lead. The obvious legislative vehicle is the prospective Bill on Parliamentary Pensions.

Attitude of the House

3. Traditionally the House has taken the Lord Chancellor's salary order as an opportunity to discuss the TSRB report. Last year's debate (9 June) was uncontentious and in the Commons it went through on the nod. But Ministers may remember the debate following the 1985 TSRB Report when the Government only won by 249 votes to 232. Clearly, it would be helpful to avoid debates on the TSRB. Denying the House the opportunity to debate the TSRB could make the passage of the Bill on Parliamentary Pensions and Severance pay more contentious. But it is already classified as likely to be contentious.

4. The option is not entirely straightforward. It would create a small anomaly for the Lord Chancellor's salary to be determined administratively, and without further reference to the House, when the salaries of all other Ministers and paid office holders (with the exception of the Chairman and Principal Deputy Chairman of Committees in Lords who are appointed by the House) can only be varied following an affirmative order.

Conclusion

5. There are strong political arguments for taking the TSRB out of the political arena in this way. We recommend you agree in principle that the necessary legislation should be included in the Parliamentary Pensions Bill.

JONATHAN de BERKER



b7. 17/2  
FROM: J M G TAYLOR  
DATE: 10 February 1989

MR DE BERKER

cc Chief Secretary  
Sir P Middleton  
Dame A Mueller  
Mr Kelly  
Mrs Case  
Ms Seammen

## THE LORD CHANCELLOR'S SALARY ORDER

The Chancellor has seen your note of 9 February.

2. He has commented that he does not understand the argument in paragraph 4 of the draft note, which is based on the assertion that Ministerial salaries can be increased only by affirmative resolution. If that were so, such a resolution would be just as good an occasion to debate the TSRB report etc. He had understood that the whole point was that it was only the Lord Chancellor's salary increase that needed an affirmative resolution: hence the desirability of doing away with the sole and inappropriate occasion for debate.

3. I should be grateful for advice.

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

J M G TAYLOR

TAYLOR  
→  
DE BERKER  
10/2

SECRET AND PERSONAL

DE BERKER  
→  
PS/CX  
19/2

FROM: J de BERKER  
DATE: 10 February 1989

- 1. MS SEAMMEN
- 2. PS/CHANCELLOR

*[Handwritten signature and initials in red ink]*

cc Chief Secretary  
Sir P Middleton  
Dame Anne Mueller  
Mr Kelly  
Mrs Case

**THE LORD CHANCELLOR'S SALARY ORDER**

1. The Chancellor suggested that if other Ministers' salaries had to be determined by an affirmative order (as is the case) getting rid of the Lord Chancellor's Salary order would not necessarily avoid a debate on the TSRB report; instead it could come up during the debate on the Ministerial and other Salaries order.

2. The Ministerial and other Salaries order which determines Ministers' salaries in payment from 1 January this year was debated in December. Debates on such orders will usually take place in the autumn. By then the TSRB reports will be stale. Moreover, the debate on Ministerial salary order has never, so far as we are aware, been used as an occasion for debate on TSRB reports; and the connection between the order and the previous TSRB report would be so tenuous - particularly since it would exclude the salary of the Lord Chancellor - as to suggest that any attempted debate on the TSRB would be out of order.

3. By contrast, there is generally considerable pressure to get the Lord Chancellor's Salary order through fairly soon after the TSRB report because the Lord Chancellor cannot receive his increase until the order has been made, and he cannot receive payment retrospectively. Until the order is made he may also have an inverse differential with the Lord Chief Justice over whom he

SECRET AND PERSONAL

is supposed to have a £2000 salary lead, a situation which will arise this year. The Lord Chancellor's salary is currently £87250 but the TSRB has recommended that the Lord Chief Justice's salary should increase from £85250 to £89500.

4. I have amended the submission to the Lord President to take account of the Chancellor's point.

*Jonathan de Berker*

JONATHAN de BERKER

SECRET AND PERSONAL

*J de Berker*

FROM: J de BERKER  
DATE: 10 February 1989

- 1. ~~MS SEAMMEN~~ *JF*
- 2. LORD PRESIDENT

*✓*

cc Chancellor  
Chief Secretary  
Sir Peter Middleton  
Dame Anne Mueller  
Mr Kelly  
Mrs Case

DE BERKER  
→  
L. PRESIDENT  
10/2

**THE LORD CHANCELLOR'S SALARY ORDER**

1. One of the points Ministers are invited to decide at the meeting on Review Body recommendations next Tuesday is whether in principal, and subject to further work the proposed legislation on Parliamentary Pensions and Ministerial Severance pay should remove the need for an annual affirmative resolution to determine the Lord Chancellor's salary. We advise you to agree to this. A short paper has been prepared by the Lord Chancellor's Department which will probably appear as an Annex to the paper for the meeting. A copy is attached.

Legal Position

2. The need for an annual order could be avoided by amending the 1975 Ministerial and other Salaries Act so that the salary may be determined administratively by reference to that of the Lord Chief Justice whose salary is determined in the light of the recommendations of the TSRB. Following the recommendations of the TSRB in 1983 the Lord Chancellor has a £2,000 salary lead over the Lord Chief Justice. The legislation could also make provision to vary the differential subject to an affirmative order. This would avoid an annual debate, and it would only be necessary to return to the House when we wanted to change the salary lead. The obvious legislative vehicle is the prospective Bill on Parliamentary Pensions.

SECRET AND PERSONAL

Attitude of the House

3. Traditionally the House has taken the Lord Chancellor's salary order as an opportunity to discuss the TSRB report. Last year's debate (9 June) was uncontentious and in the Commons it went through on the nod. But Ministers may remember the debate following the 1985 TSRB Report when the Government only won by 249 votes to 232. It would be helpful to avoid similar debates on the TSRB in the future.

4. There are, however, two potential difficulties. First, we cannot expect the House to take kindly to the removal of their annual opportunity to discuss Senior Civil Service Salaries and it could well make the passage of the Bill on Parliamentary Pensions and Severance pay more contentious than it is already expected to be.

5. Second, the change would create an anomaly in that the Lord Chancellor's salary would then be determined administratively, and without further reference to the House, when the salaries of all other Ministers and paid office holders including the Speaker, (with the exception of the Chairman and Principal Deputy Chairman of Committees in Lords), can only be varied following an affirmative order and would therefore remain subject to the control of the House.

6. If the Lord Chancellor's salary order was abolished we think it is most unlikely that the Ministerial and Other Salary Order which determines the salaries of other Minister and paid office holders could be used as an opportunity to debate TSRB reports. As far as we are aware it has never been used for this in the past, and the connection between the order and the previous TSRB reports would be so tenuous as to suggest that any attempts to raise the TSRB would be out of order - especially since the order will exclude the salary of the Lord Chancellor. Moreover, Ministerial and other Salaries orders will usually be debated in the autumn by which time TSRB reports are stale.

SECRET AND PERSONAL

Conclusion

7. Abolishing the Lord Chancellor's Salary Order may produce some difficulties but there are strong arguments for taking the TSRB out of the political arena in this way. We recommend you agree in principle that the necessary legislation should be included in the Parliamentary Pensions Bill.

*Jonathan de Berker*

JONATHAN de BERKER



## THE LORD CHANCELLOR'S SALARY ORDER

### Lord Chancellor's salary

1. The Lord Chancellor's salary is set by an Order in Council under the Ministerial and Other Salaries Act 1975. This is subject to affirmative resolution in both Houses. In 1983, the Top Salaries Review Body Report on Ministerial and Parliamentary Salaries (No 20) recommended that the Lord Chancellor should enjoy a salary lead over the Lord Chief Justice, to recognise his pre-eminent position in the judiciary as well as his roles as Minister and Speaker of the House of Lords. Ministers accepted this and it was decided that the differential should be maintained at £2,000.

### Disadvantages

2. The Order has been taken as an opportunity to debate the Government's decisions on Review Body proposals when they have been politically contentious. It has seemed inappropriate for the Lord Chancellor as the head of the judiciary to become the focus of political comment.
3. The Order cannot be backdated. This means that there is often a delay between an increase in the Lord Chief Justice's salary and an increase in the Lord Chancellor's own salary, as the latter does not take effect until the date on which The Queen makes the Order at the earliest. (The likelihood of delay occurring will be lessened by the new TSRB timetable which will permit increases to be announced well in advance of 1st April when they are likely to come into payment, but the potential will still remain).
4. The delay has implications for the Lord Chancellor's pension which is determined by reference to the salary in payment on the day he leaves office. Should he die or retire before the Order takes effect, the value of his pension will be reduced. There are also implications for the pensions of former Lord Chancellors, which are currently subject to the rule restricting the value of their pensions to that for which the Lord Chancellor of the day would be eligible were he to leave office. However, changes proposed under the forthcoming Office Holders and Ministerial Severance Pay Bill will remove this restriction.

*Parliamentary Pensions*

### Options for change

5. Primary legislation will be required to amend the Order making power in Section 1 (4) of the Ministerial and Other Salaries Act 1975 preferably so that the salary may be determined administratively and by reference to that of the Lord Chief Justice. It is for consideration whether specific mention should be made of the £2,000 differential. It might be preferable simply to take power to set and vary the lead by order, in case the Government wishes to change this in the future.

*Confirmative*



FROM: J M G TAYLOR

DATE: 13 February 1989

*PMF*

MR de BERKER

cc PS/Chief Secretary  
Sir P Middleton  
Dame A Mueller  
Ms Seammen  
Mr Kelly  
Mrs Case

THE LORD CHANCELLOR'S SALARY ORDER

The Chancellor was grateful for your note of 10 February.

*JMG*

J M G TAYLOR

CONFIDENTIAL

5605

FROM: J DE BERKER

DATE: 2 March 1989

1. ~~MS SEAMMEN~~2. **APS/CHANCELLOR**

cc PS/Chief Secretary  
 PS/Paymaster General  
 PS/Lord President  
 Sir Peter Middleton  
 Dame Anne Mueller  
 Mr Anson  
 Mr Phillips  
 Mr C W Kelly  
 Mrs Case  
 Mr Dixon  
 Mr Mortimer  
 Mr Sheehan  
 Mr M Lawson o/r

*OK J De Berker 15.  
 W. Lawrence*

*Ch/ Unfortunately it looks as if we shall have to have one more Ld Chancellor's salary order - the need for it will not be dispensed with until next year. This should perhaps have been made clearer in original submission.*

**LORD CHANCELLOR'S SALARY ORDER**

OK to proceed?

215

1. At Cabinet on 16 February it was agreed that the Government should use next session's Bill on Parliamentary Pensions as a vehicle to dispense with the need for an Affirmative Resolution in both Houses on the Lord Chancellor's salary. The background is set out in my submission to the Lord President of 10 February.

2. The Lord President is now hoping to slip the Parliamentary Pensions Bill in at the end of the current session and we are preparing instructions for Parliamentary Council. We are also preparing a final Lord Chancellor's salary order to implement Lord Mackay's pay increase for this year. The present intention is that the Resolution should be debated towards the end of March or in early April in time for the Order to be made at the meeting of the Privy Council on 18 April.

3. LCD are anxious to proceed with this year's order because the Lord Chancellor cannot receive his revised salary until the order comes into force, and it cannot be made retrospective. This not only affects the current Lord Chancellor, but also past Lord Chancellors and their widows whose pensions are linked to the Lord Chancellor's salary.

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4. If the Chancellor is content we propose to proceed with the Order for this year whilst also preparing for the legislation to dispense with the need for it in future.

*Jonathan de Berker*

JONATHAN DE BERKER



FROM: D I SPARKES

DATE: 6 March 1989

MS SEAMMEN

cc PS/Chief Secretary  
PS/Paymaster General  
PS/Lord President  
Sir P Middleton  
Dame A Mueller  
Mr Anson  
Mr Phillips  
Mr Kelly  
Mrs Case  
Mr Dixon  
Mr Mortimer  
Mr de Berker (o/r)  
Mr Sheridan  
Mr M Lawson

*pwp*

## LORD CHANCELLOR'S SALARY ORDER

The Chancellor was grateful for Mr de Berker's minute of 2 March seeking his agreement to proceed with laying a final Lord Chancellor's Salary Order. The Chancellor has noted that the need for an affirmative resolution in both Houses on the Lord Chancellor's salary will not be dispensed with until next Session and, in the circumstances, he agrees that a final Salary Order should be prepared.

*D.I.*

DUNCAN SPARKES

FROM: DAVID FAWCETT  
DATE: 8 March 1989

- 1. MS SEAMMEN
- 2. APS/CHANCELLOR

cc PS/Lord President  
 Mr de Berker (o/r)  
 Mr Lawson (o/r)  
 Mr Sears

LORD CHANCELLOR'S SALARY ORDER: 1989

1. Following discussions with PS/Lord President and our Parliamentary Unit, I understand that approval of the timing for laying the Order is needed.

2. For it to be included for consideration in the Joint Committee on Statutory Instruments' (JCSI's) meeting of the 21 March, the Order must be laid at least seven days beforehand.

*(six at a pinch)*

3. HMSO are providing us with proofs by close today, I would therefore suggest that the Order be laid on Monday 13 March.

  
 DAVID FAWCETT

*Ch/ If we are to have the Whips' cooperation in getting the Order through both Houses in time for the Privy Council on 18 April, we really must lay the Order early next week, though it could wait (at a pinch) until Wednesday. The Order would be debated between 4 & 11 April. Diana Seammens thinks, given lack of press interest in this year's TSRB, most unlikely to get a rough ride. Shall we go for laying Order on Wednesday? DIS*

*SSR*

*Make a plan, so as not to be late at all.*



FROM: D I SPARKES  
DATE: 10 March 1989

MR FAWCETT

*5/8/89*

*10wP*

*BF 13/3*

cc PS/Lord President  
Ms Seammen  
Mr de Berker  
Mr Lawson  
Mr Sears  
Mr Dyer

**LORD CHANCELLOR'S SALARY ORDER: 1989**

The Chancellor was grateful for your minute of 8 March concerning the timing for laying the Lord Chancellor's Salary Order.

2. The Chancellor would prefer the Order to be laid on Tuesday 14 March. On this basis, I understand that the Order is likely to be debated between 4 and 11 April and that, given the lack of press interest in this year's TSRB Reports, it should go through on the nod.

*D.I.*

DUNCAN SPARKES

FROM: DAVID FAWCETT  
DATE: 10 March 1989

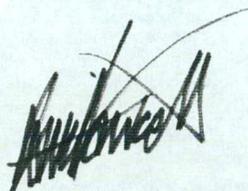
PARLIAMENTARY CLERK

cc APS/Chancellor  
PS/Lord President  
PS/Chief Secretary  
PS/Paymaster General  
PS/Chief Whip  
Ms Seamen  
Mr de Berker o/r  
Mr Lawson

*pwp  
(on BF)*

LORD CHANCELLOR'S SALARY ORDER 1989

1. Further to my minute of 9 March 1989, the above Order will now be laid in draft on Tuesday 14 March.
2. Mr Sears has been assured by the Clerk to the Joint Committee on Statutory Instruments (JCSI) that this will still be in time for the JCSI's meeting of the 21 March.



DAVID FAWCETT

FROM: DAVID FAWCETT  
DATE: 9 March 1989

1. MR LENISTON
2. PARLIAMENTARY CLERK

cc PS/Lord President  
PS/Chief Secretary  
PS/Paymaster General  
PS/Chief Whip  
Mr Gilhooly  
Ms Seammen  
Mr de Berker o/r  
Mr Lawson o/r

**LORD CHANCELLOR'S SALARY ORDER 1989**

1. As you will know, the Lord Chancellor's salary is subject to Affirmative Resolution of an annual Order. Moves to change this are in the pipeline, but we will need to proceed as usual for this year.

2. In this respect, I attach the draft Order and would be grateful if it could be laid on Monday 13 March, as this would enable us to meet the timetable as set out in Mr de Berker's minute of 2 March to PS/Lord President copied to Mr Sears.

3. The motion to approve the Order should go down on the Order Papers of both Houses as soon as the draft SI is laid. I understand that your office arranges this, and therefore attach the customary list of documents and background note.

4. The deadline for papers for April's meeting of the Privy Council is close on 12 April. If any problems arise please call Michael Lawson or myself on extension 5606 or 5604 respectively.



DAVID FAWCETT



CH/EXCHEQUER	
REC.	15 MAR 1989
ACTION	MR De BERKER ✓ 15/3
COPIES TO	CST SIR P MEDDLETON DAME A MUELLER MR KELLY MS SEAMMEN MR LAUSON MR DYER

PRIVY COUNCIL OFFICE  
WHITEHALL, LONDON SW1A 2AT

15 March 1989

*pwp*

*Dear Norman*

**LORD CHANCELLOR'S SALARY ORDER 1989**

The Lord President has seen your note of 10 March in which you expressed the hope that this Order would go through on the nod as it did last year. I am afraid the Lord President regards this expectation as likely to prove ill-founded, given the recent controversy surrounding the publication of the Green Paper on Courts and Legal Services with which the Lord Chancellor is closely associated. Whether or not this will in turn lead into a wider debate on other aspects of the TSRB Report is difficult to predict but the Lord President would be grateful if you could arrange for him to be provided with comprehensive briefing. This should, if possible, reach me by close of play on Friday 17 March as the debate is likely to take place the following week.

I am copying this note to the Private Secretaries to the Chief Secretary, the Lord Chancellor, the Paymaster General and the Chief Whip, together with Brian Dyer, Ms Seammen, Mr Fawcett and Mr de Berker at the Treasury. Could I also by this note ask Paul Stockton to let me have defensive briefing on the Green Paper and any related issues which may be raised in the debate.

*Yours*  
*Steve Catling*

STEVE CATLING  
Private Secretary

Duncan Sparkes Esq  
APS/Chancellor of the Exchequer

96/43



pmw

Chy

We now know the average earnings figure to be published next Thursday.

It is back to 9%

- a note will follow shortly.

*N. Simpson* 015



Thanks. But do  
line on the new  
proposals (X @  
Annex H) will wait  
wash. Tax relief  
for (United States  
it is necessary to set  
a (high) limit; this  
enables a certain  
amount of expenditure  
& possibility to be  
on

Myrtle,

see her

2 all her

see her

Importing to make

in order to

ponds sampler ←

have for M & L  
get administrative

Smiths.

(Mention OK.)



Ch)

Draft speech and briefing for Lord President to use when laying the (final) Lord Chancellor's Salary Order. Includes briefing on TSRB, just in case.

It looks OK. Suggest you don't read it all - much of it is recycled from past briefing, so you will have cleared it already.

New stuff is

- Cover note
- Draft speeches (identical)
- ~~- Q&A briefing on TSRB or pension~~
- Q&A briefing on Budget pensions reform.

These are flagged.

OK?

DIS

CONFIDENTIAL

*MWP*

FROM: M LAWSON  
DATE: 16 March 1989

1. ~~MS SEAMMEN~~
2. **CHANCELLOR**
3. LORD PRESIDENT

cc PS/Paymaster ) Without  
          General ) attachments  
          Dame Anne Mueller ) B-G  
          Mr C W Kelly )  
          Mr Dixon )  
          Parliamentary )  
          Clerk )  
          Mr de Berker o/r )  
          Mr Sheridan )  
          Ms Tuffs LCD )

PS/Lord Privy Seal (Official)  
PS/Lord Privy Seal (Parliamentary)  
PS/Chief Whip

**LORD CHANCELLOR'S SALARY ORDER: DEBATE**

1. This Order is due to be taken in the Commons late on Wednesday 22 March and in the Lords on 10 April during "dinner break". It will be moved by in the Commons and we assume the Lord Privy Seal in the Lords.

2. It has been an annual event since 1983, when the TSRB recommended, and the Government accepted, that the Lord Chancellor should, in recognition of his position as head of the judiciary, have a salary lead over the Lord Chief Justice.

3. The Lord Chancellor's salary has to be set each year in the light of the Government's decision on the TSRB recommendation on the pay of the Lord Chief Justice. In 1983 the Order was debated at the same time as the Order establishing Ministerial salaries up to 1987, and in 1985, the occasion was used to debate the controversial TSRB report of that year. In 1984, 1986, and 1987 when the TSRB recommendations produced less controversy, the debates were shorter and less troublesome. Last year there was a short debate in the Lords and in the Commons it went through on the nod.

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4. This year the TSRB recommended an increase in the Lord Chief Justice's salary from £85,250 to £89,500 (5 per cent). The Government decided to implement the TSRB recommended salary in full from 1 April 1989. The Lord Chancellor's lead is £2,000 so the Order implements a salary of ~~£89,500~~<sup>£91,500</sup>, but since the Order cannot be retrospective, the previous salary of £87,250 continues until the Order takes effect.

5. The current Lord Chancellor, like his predecessor Lord Havers (but unlike Lord Hailsham) accepts the full salary which includes his salary as Speaker of the House of Lords. His pension is based on full final salary and the pensions of former Lord Chancellors and their widows can also be affected (see background note). Last year's separate TSRB Report on Parliamentary Pensions recommended that the pension of the Lord Chancellor should be half of his final salary instead of  $\frac{17}{40}$ ths as at present. The draft Parliamentary Pensions Bill is currently being prepared to implement this decision. Given the link to pensions now in payment and also the fact that the Lord Chancellor will not receive his revised salary until the Order comes into effect it is desirable that the Order is made as soon as possible.

6. This year's debate is unlikely to be difficult as far as the Lord Chancellor's salary is concerned. We do, however, expect the Opposition to criticise the salary level but this should not cause any difficulty. The recent controversy surrounding the publication of the Green Paper on Courts and Legal Services, with which the Lord Chancellor is closely associated, may lead into a wider debate. LCD are providing briefing to you direct on this.

7. The recent Budget produced proposals for limiting tax relief on large pensions. The LCD are considering the implications for judges and the Lord Chancellor. The Lord Chancellor's lump sum is paid under the Judicial Pensions Act 1981 and it is expected that this act will need amendment to take account of the Budget pension cap for him and judges generally. The office holder arrangement under the Parliamentary Pension Acts are not affected. So far no

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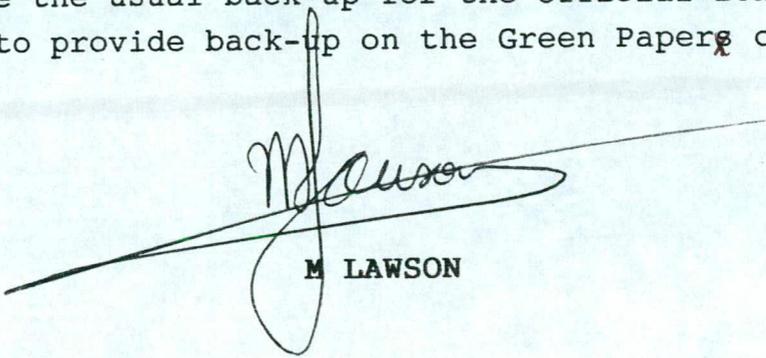
CONFIDENTIAL

judge has asked - therefore none has been told - about the effects. The LCD feel it would be highly embarrassing if you made reference to the Lord Chancellor's position in the debate since that would prompt unwelcome questions. We recommend that you are therefore strictly non-committed and attach Q and A briefing at Annex H.

8. I attach:

- A a draft opening speech for each House - very short and factual;
- B a short background note and defensive briefing on the detail of the Order;
- C a copy of the briefing about this year's Review Body awards;
- D a copy of the 1983 TSRB recommendation about the Lord Chancellor's lead;
- E a copy of last year's TSRB recommendation about the Lord Chancellor's pension;
- F Q&A briefing on the TSRB report on pensions and the Government statement on the report.
- G a copy of last year's debate on the Order.
- H Q and A briefing on Budget proposals for limiting tax relief on large pensions.

9. We will provide the usual back-up for the Official Boxes and have arranged for LCD to provide back-up on the Green Papers on the legal profession.

  
M LAWSON

ENCS

CONFIDENTIAL

CONFIDENTIAL

Annex A (Commons)

DRAFT SPEECH (Commons)

I beg to move,

That the draft Lord Chancellor's Salary Order 1989, which was laid before this House on 14 March, be approved.

2. The need for this Order arises out of the link between the salaries of the Lord Chancellor and the Lord Chief Justice. The independent Top Salaries Review Body recommended in 1983 that the Lord Chancellor should be paid more than the Lord Chief Justice in recognition of his position as the head of the judiciary and of his wider responsibilities. The House accepted the principle of the TSRB recommendation and has successively re-affirmed this with the approval of the Lord Chancellor's Salary Orders for the years 1984 to 1988.

3. An annual Lord Chancellor's Salary Order is necessary because the Lord Chief Justice's salary is set annually following the recommendations of the Top Salaries Review Body. This year the TSRB recommended a salary of £89,500 for the Lord Chief Justice - a 5 per cent increase. The Government accepted that this figure be paid from the due date of 1 April 1989.

4. The Lord Chancellor has a salary lead of £2,000. The House accepted this figure in 1983 and it has remained at that level since. Its real value has eroded since it was first established but this of itself is not a valid reason for changing it. The lead exists because the Lord Chancellor is head of the judiciary and this makes it right that an appropriate differential should exist between him and the Lord Chief Justice. A lead of £2,000 fulfils such a requirement.

5. The Order establishes the Lord Chancellor's salary at £91,500 from the day it comes into force - it cannot be made retrospective. The salary level derives directly from a TSRB report and embodies a principle established five years ago and accepted by the House on six previous occasions. I hope that once again it will commend itself to the House this year. I commend the Order to the House.

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Annex A (Lords)

DRAFT SPEECH (Lords)

My Lords, I beg to move,

That the draft Lord Chancellor's Salary Order 1989, which was laid before this House on 14 March, be approved.

2. The need for this Order arises out of the link between the salaries of the Lord Chancellor and the Lord Chief Justice. The independent Top Salaries Review Body recommended in 1983 that the Lord Chancellor should be paid more than the Lord Chief Justice in recognition of his position as the head of the judiciary and of his wider responsibilities. The House accepted the principle of the TSRB recommendation and has successively re-affirmed this with the approval of the Lord Chancellor's Salary Orders for the years 1984 to 1988.

3. An annual Lord Chancellor's Salary Order is necessary because the Lord Chief Justice's salary is set annually following the recommendations of the Top Salaries Review Body. This year the TSRB recommended a salary of £89,500 for the Lord Chief Justice - a 5 per cent increase. The Government accepted that this figure be paid from the due date of 1 April 1989.

4. The Lord Chancellor has a salary lead of £2,000. The House accepted this figure in 1983 and it has remained at that level since. Its real value has eroded since it was first established but this of itself is not a valid reason for changing it. The lead exists because the Lord Chancellor is head of the judiciary and this makes it right that an appropriate differential should exist between him and the Lord Chief Justice. A lead of £2,000 fulfils such a requirement.

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5. The Order establishes the Lord Chancellor's salary at £91,500 from the day it comes into force - it cannot be made retrospective. The salary level derives directly from TSRB report and embodies a principle established five years ago and accepted by the House on six previous occasions. I hope that once again it will commend itself to the House this year. I commend the Order to the House.

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ANNEX B

LORD CHANCELLOR'S SALARY ORDER: BACKGROUND NOTE

In 1983 the Government accepted the TSRB recommendation that the Lord Chancellor should enjoy a slight salary lead over the Lord Chief Justice, in recognition of his position as head of the judiciary. The differential was set at £2,000.

2. The Lord Chief Justice's salary is determined each year on the basis of a recommendation by the TSRB. It was, therefore, not possible to determine the Lord Chancellor's salary from 1 January 1989 in the way that was done for other Ministers in the Order in Council on Ministerial Salaries approved on 21 December 1988. This is why an Order in Council is needed annually for the Lord Chancellor's salary. The salary of the Lord Chief Justice has been increased from £85,250 to £89,500 from 1 April. It is therefore necessary to bring forward a new Lord Chancellor's Salary Order to maintain the existing £2,000 differential and increase the Lord Chancellor's salary to £91,500.

3. Like his predecessor Lord Havers (but unlike Lord Hailsham), the present Lord Chancellor draws his full salary which includes a salary as Speaker of the House of Lords (£12,215) which is set at 14 per cent of the full salary. This will increase to £12,810 when the Order is approved.

4. The salary affects the Lord Chancellor's pension rights. Lord MacKay's pension is based on full final salary as are the pensions of previous Lord Chancellors and previous Lord Chancellor's widows. All holders of the Office of Lord Chancellor qualify for an automatic non-contributory pension of 42.5 per cent of pensionable salary, paid as soon as they leave office. The separate TSRB Report on Parliamentary Pensions, published on 24 May last year, recommended, and the Government accepted, that this be increased to 50 per cent. These pensions are increased in line with the RPI, except that they never exceed the pension payable to the current Lord Chancellor, should he retire. The Government also accepted the

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additional TSRB recommendation that these capping restrictions should be removed. However this recommendation cannot be implemented until the necessary Bill (which is currently being drafted) has received Royal Assent so the capping restrictions remain in force.

5. There are currently four former Lord Chancellor's (Lord Havers, Lord Hailsham, Lord Gardiner and Lord Elwyn-Jones) and one widow of a former Lord Chancellor (Lady Dilhorne) receiving pensions. Lord Havers', Lord Hailsham's and Lord Gardiner's pensions are limited by the current Lord Chancellor's salary and will therefore increase from the date the present Lord Chancellor receives his increase, subject to the Order being passed.

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Attached is briefing on

1. Review Bodies:

- (a) The Prime Minister's Written Answer announcing the Review Body awards; (pp 3-5)
- (b) Summary of recommendations and Government's response; (pp 6-13)
- (c) Q and A briefing; (pp 14-26)
- (d) Fuller brief on NHS financing; (pp 26,27)
- (e) Details of past RB decisions. (pp 28-31)

2. IAC

- ~~(a) Secretary of State for Education's Written Answer announcing the Government's acceptance of the IAC's recommendations; (pp 32-37)~~
- ~~(b) "Bullets"; (pp 38-40)~~
- ~~(c) Q and A briefing. (pp 41-45)~~

23. Andrew Report

- (a) Paymaster General's Written Answer announcing Government's further decisions on Andrew report; (p 46)
- (b) Q and A briefing. (pp 47 and 48)

Questions on Review Bodies generally, the Senior Civil Service and the Andrew Report should be addressed to HM Treasury; questions on the judiciary to the Lord Chancellor's Department; on the Armed Forces to the Ministry of Defence; on the NHS Groups to Department of Health, ~~and the IAC to Department of Education and Science.~~

HM TREASURY

16 February 1989

Thursday 16 February 1989

(Answered by the Prime Minister on Thursday 16 February)

UNSTARRED  
No.301

Mr Edward Leigh: To ask the Prime Minister, if she will make a statement on the latest Reports of the Pay Review Bodies.

**THE PRIME MINISTER**

The 1989 reports of the Review Bodies on the pay of Nursing Staff, Midwives and Health Visitors, and Professions Allied to Medicine, the Doctors and Dentists, and the Armed Forces, and of the Top Salaries Review Body, have been published today. Copies are now available in the Vote Office. The Government are grateful to members of the review bodies for these reports and for the time and care which they have put into their preparation within the new timetable, enabling decisions to be taken ahead of the new financial year.

The following table shows the increases in pay rates recommended by the review bodies, and their cost:

Review Body reports	Pay bill increase	Range of increase	UK Public Expenditure Cost
	per cent	per cent	£ million(1)
Armed Forces	6.8	5-8	272
Doctors and Dentists	8.8	8-14.1	312
Professions Allied To Medicine	7.7	7.6-7.8	43
Nurses, Midwives and Health visitors	6.8	6.7-6.9(2)	420
Top Salaries	6.5	4.9-10.6(3)	6

- (1) The figures for public expenditure cost differ from those in the review bodies' reports. Their figures do not include some costs which count as public expenditure. The figure for doctors and dentists includes payments for GPs' expenses, not counted as pay. The figure for nurses includes £5m for the flexible pay experiment and an estimated £3 million for a new grading structure for educational grades, which the Review Body has not yet costed.
- (2) Three Chief Area Nurses grade 4 in Scotland will get increases of 10-13.6%.
- (3) This figure does not allow for the recommendation to increase from 25% to 35% the quota of civil servants in Grades 2 and 3 eligible for discretionary increments. The figure for the pay bill increase does however allow for this. The figure given for the range of increases also excludes restructuring for 13 Immigration Adjudicators who receive increases of 27.1%, and for the Chief Immigration Adjudicator and the Vice-Presidents of the Immigration Appeal Tribunal, who get 28.3%.

The Government have decided to accept in full the Review Bodies' recommendations on armed forces, on professions allied to medicine, and on nurses, midwives and health visitors.

The Government have also decided to accept the recommendation of the Review Body on doctors and dentists for a basic increase of 8% for all the groups covered. In the Government's view the creation of 100 additional permanent consultant posts over the next 3 years, as proposed in the White Paper, "Working for Patients", which was published after the Review Body report was received, will best achieve the objective of improving the long-term career structure for hospital doctors. The creation of these posts will therefore take the place of the increases recommended, in addition to the 8% basic increase, at the top of the consultants' scale and in the size of consultants'

distinction awards. Subject to this, the Government accepts the Review Body's recommendations.

The Government have decided to accept the recommendations of the Top Salaries Review Body in full, except that they consider that the pay of 2-star officers should be around 85% of the normally attainable maximum of Grade 2 civil servants (which is also the pay point for 3-star officers) rather than linked to a performance point for Grade 3 civil servants. This will give the 2-star officer a salary at the level recommended by the TSRE.

The full cost of the awards by the Armed Forces Pay Review Body and Top Salaries Review Body groups will be met from within existing public expenditure programme totals for this year. In the case of the health services however the Government recognise that the full costs could not be accommodated without adversely affecting services to patients. The Government have therefore decided to provide an extra £142m for health authority cash limits from the Reserve for next year. Of the remaining cost, £417m is already fully covered within the allocations made for this year, leaving a balance of £44m to be covered from cost improvements. The Government have similarly decided to provide an additional £62m to the Family Practitioner Services from the Reserve for this year, bringing the total addition from the Reserve to £204m. Together with the increases in allocation already announced, the increase in provision for the National Health Service in 1989-90 over 1988-89 will therefore be £190m.

In total, taking account of lower employers' superannuation contributions, additional receipts and efficiency savings, the resources available for the National Health Service in 1989-90 will be £2460m more than in 1988-89.

The pay rates and scales resulting from the decisions will be promulgated as soon as possible for all the groups concerned.

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SUMMARY OF RECOMMENDATIONS AND GOVERNMENT RESPONSE

1. Armed Forces

The AFPRB made recommendations averaging 6.8 per cent and costing £272m gross. The net cost is £253m as the review body also recommended some increases in charges. The Government has accepted the recommendations in full - as it has all previous recommendations of the AFPRB.

See Annex A for typical increases.

2. Doctors and Dentists

The DDRB recommended increases averaging 8.8 per cent and costing £312m. They break down as follows:

(i) a basic increase of 8% for all NHS doctors and dentists (accepted);

(ii) a reduction in the number of working hours at which junior hospital doctors qualify for increased on-call allowances - designed to encourage authorities to reduce the number of hours worked (accepted);

(iii) an additional point at the top of the Senior House Officer scale (accepted);

(iv) a small increase in the number of higher distinction awards (accepted);

(v) an increase in the A+ distinction (top) award from 95% to 100% of the consultant scale maximum (rejected);

(vi) an additional £1,000 at the top of the consultant scale (rejected).

The Government has accepted all the recommendations except the additional £1,000 for consultants and the increase in the A+ distinction award. The White Paper on the NHS proposes an increase on the number of consultants (100 extra over three years)

and in the Government's view this would provide a better incentive to doctors to opt for a hospital career.

See Annex B for typical increases.

3. Nurses and Professions allied to medicine (PAMs)

The NPRB made recommendations of 6.8 per cent for nurses costing £420m and 7.7 per cent for PAMs at a cost of £43m. The Government has accepted the recommendations in full.

See Annex C for typical increases.

4. Top Salaries (top civil service, senior military, judiciary)

The TSRB made recommendations averaging 6.5 per cent at a cost of £6m. They breakdown as follows:

- (i) a basic increase of 5% for all groups (accepted);
- (ii) a minor restructuring for the judiciary which would bring their paybill increase to 5.2 per cent (accepted);
- (iii) for senior officers in the armed forces 2 star officers (Major Generals) to be linked to the first performance point for grade 3 (Under Secretary) civil servants. At the moment the link is with the Grade 3 normally attainable maximum (modified);
- (iv) for top civil servants the number eligible for discretionary increments based solely on performance increased from 25% to 35% and London Allowance of £2,000 introduced from Grade 3s (accepted).

The Government has accepted all the recommendations apart from that for the link between the pay of 2 star officers and Grade 3 civil servants which has been modified so that 2 star officers will now get around 85 percent of the normally attainable maximum for Grade 2 civil servants. This gives 2 star officers a salary at the level recommended by the TSRB but avoids linking pay which

has no performance element to a performance point, which the Government considers to be wrong in principle.

See Annex D for typical increases.

#### 5. Funding

The additional costs of the AFPRB recommendations will be contained within the Defence cash limit for the year and within the totals for 1990-91 and 1991-92 set out in the recent Public Expenditure White Paper. The TSRB recommendations will similarly be funded from within existing provision. The UK cost of increases for staff covered by the medical review bodies is £758m which is £248m more than existing NHS provision. Health authorities will be asked to meet £44m from their cost improvement programmes. The Government will meet the remaining £204m from the Reserve.

#### 6. Pay and Price Movements elsewhere

The Review Bodies' recommendations compare with:

- (i) a year on year increase in underlying average earnings for the whole economy of 8.75% in December;
- (ii) settlements running at round 6½ per cent, median of settlements between October and December reported by Industrial Relations Service 6.5%, Manufacturing settlements since August averaging 6.7% (CBI);
- (iii) a year on year increase in the RPI of 6.8% in December (4.8% of TPI). January figure to be announced on Friday 17 February. The RPI is expected to fall during the course of this year. The Autumn Statement predicted that by 1989 Q4 it would be 5%.

7. General Line to Take

Government committed to meeting Review Bodies' recommendations unless clear and compelling reasons. Has therefore endorsed nearly all Review Bodies' recommendations. Only exceptions extra awards for consultants - NHS White paper increased number of consultants - and rationale for 2 star officers increase. Government has funded the bulk of additional health service costs but has made clear no blank cheque - health authorities will have to meet £44m of cost from efficiency savings.

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## ANNEX A

	<u>Armed Forces (AFPRB)</u>		
	<u>Typical Increases</u>		
	Present pay	Pay, from 1 April 1989	Increase
	£	£	%
Brigadier	36,555	38,748	6.0
Lieut Colonel on maximum	29,247	30,999	6.0
Captain on maximum	17,418	18,812	8.0
Staff Sergeant Band 4	11,830	12,585	6.4
Corporal I Band 2	11,195	11,990	7.1
Private IV Band 1	5,705	6,063	6.3

The same rates apply to equivalent ranks in the other Services.

The figures for Staff Sergeants, Corporals and Privates all for men committed to 6 years' but less than 9 years' service.

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## ANNEX B

Doctors and Dentists (DDRB)  
Typical Increases

	Present pay £	Pay, from 1 April 1989 £	Increase %
<u>Hospital staff</u>			
Consultant A + distinction award	69,225	74,760	8.0
Consultant on maximum, no distinction award	35,500	38,340	8.0
Registrar, on maximum	16,330	17,635	8.0
House Officer, on maximum	10,740	11,600	8.0
<u>General practitioners (average net income)</u>			
Doctors	28,800	31,105	8.0
Dentists	24,920	26,915	8.0

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## ANNEX C

Nurses (NPRB)  
Typical Increases

	Present pay	Pay, from 1 April 1989	%
	£	£	
Regional Nursing Officer, maximum	33,100	35,335	6.8
Director of Nursing Services, maximum highest grade	23,700	25,300	6.8
Grade G (middle Sister grade maximum)	13,925	14,860	6.7
Grade D (basic Staff nurse grade)	9,200	9,815	6.7
Grade A (unqualified nurse) maximum	6,300	6,725	6.7
Student nurse, first year	4,825	5,150	6.7

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## ANNEX D

Top Salaries (TSRB)  
Typical Increases

	Present pay	Pay, from 1 April 1989	Increase
	£	£	%
Head of the Civil Service	85,250	89,500	5.0
Permanent Secretary	68,500	72,000	5.1
Admiral			
General			
Air Chief Marshal			
Under Secretary on normally attainable maximum,			
- without London Allowance	39,000	40,900	4.9
- with London Allowance	39,000	42,900	10.0
2 star officer	39,000	43,100	10.5
Lord Chief Justice	85,250	89,500	5.0
High Court Judges	68,500	72,000	5.1
Circuit Judges	45,800	48,100	5.0

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Q & A BRIEFING AFPRB

How much?

Average increase is 6.8 per cent at a gross cost of £272m. Net cost £253m as some charges go up too. The additional cost of award will be contained within Defence cash limit for the year and within the totals for 1990-91 and 1991-92 set out in the recent Public Expenditure White Paper.

Who gets the award?

All Service personnel except officers above the rank of Brigadier or equivalent whose salaries are determined by the TSRB. [The AFPRB will submit separate recommendations for Service doctors and dentists based on the award for the NHS General Medical Practitioner].

What is the effective date for implementing the recommendations?

The main pay increases will be introduced with effect from 1 April 1989, as recommended by the AFPRB. Where the Review Body recommends other dates for changes in certain elements of pay or allowances (eg the revised structure for other ranks flying pay) implementation will take place on the dates recommended.

Will everyone get the same percentage pay award?

No, the increases range from 6.0% to 8.0% for officers and 6.1% to 7.1% for Other Ranks with University Cadet Entrants getting 5%. (The full recommended rates are at Annex A.)

How does the percentage increase compare to the "going rate" outside?

There is no question of a "going rate" here. The Review Body comes to a balanced judgement, taking into account earnings data

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relating to jobs of similar weight in civilian life as measured by job evaluation, and the Services recruitment and retention needs. They also take into account other factors such as relative pensions benefits, fringe benefits and job security.

The Review Body comment on the difficulties faced by dependants in obtaining employment - particularly abroad - What is the MOD doing about this?

We are aware of the problem and are seeking ways of ameliorating it. However, it is not a situation unique to the Armed Forces. Wherever employers require their staff to be mobile difficulties will arise if both partners work. The Federation of Army Wives are compiling a data base with the aim of matching wives to available jobs. At present, it is only operating in the UK but plans exist to extend the scheme to Germany.

The report makes reference to the demographic trough and suggests non-pay initiatives are needed - what is MOD doing?

In 1994 the number of young men in the UK aged between 16 and 19 will have fallen by around 23% compared with current levels and by 30% compared with the peak in 1983. The Armed Forces are tackling this problem in a variety of ways and are carrying out a number of studies. For example, expenditure on recruitment advertising is being increased and measures aimed at improving the retention of trained personnel are being taken. We are also increasing the career opportunities for women and examining how to attract more recruits from the ethnic minorities.

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#### IMPLEMENTATION

- Q. Why have you decided not to pay the consultants on the maximum the extra £1000 and not to increase the value of A+ Distinction Awards from 95% to 100% of the scale maximum?
- A. The Review Body recommended the increase of £1000 partly as a means of increasing the long term career structure of hospital doctors. The Government believes that the proposal to create 100 permanent consultant posts over the next 3 years, in addition to the already planned expansion, will best achieve this objective.
- Q. Will not the Review Body be affronted at this rejection of their recommendations?
- A. At the time they reported they were unaware of the decision to increase the number of consultants. And the terms of reference of the Review Body precludes them from making recommendations on increases in manpower.
- Q. When was the last time the Government rejected individual recommendations of the Review Body, as opposed to staging or abating overall percentage increases?
- A. This is the first occasion since the Review Body was established in 1971 that individual recommendations, such as the consultants maximum and the level of A+ awards have not been accepted. [The Government has accepted in full the last two year's recommendations of the Review Body. For the previous five years recommendations were either staged or abated.] - 7/6 Pressed,

#### Junior hospital doctors' hours

- Q. Is there anything in the Review Body's Report that will reduce the hours of junior hospital doctors?
- A. We have accepted the Review Body's recommendation that the rate for Units of Medical Time should be doubled for all contracted hours of work in excess of 96 per week. This, together, with the additional 100 consultant posts announced in the White Paper "Working for Patients", will assist the initiative launched last June to reduce the unacceptably long hours of work of some junior hospital doctors.

### Future of Review Bodies

- Q. The White Paper "Working for Patients" proposes that Self-Governing Hospitals will be free to settle the pay and conditions of service of their staff, including doctors. Does not this signal the end of the Review Bodies?
- A. No. There will be still be a place for national pay agreements. The White Paper makes clear that the NHS Hospital Trusts, who will be responsible for the Self-Governing Hospitals, will be free either to continue to follow national pay agreements or to adopt partly or wholly different arrangements.

### Distinction Awards

- Q. In their 18th Report, the Review Body criticised some aspects of the distinction award system and made suggestions for changes. What has happened?
- A. The Government is grateful for the Review Body's views. The White Paper "Working for Patients" makes it clear that the Government accepts the points they made and set out the changes (reviewability; greater management "say"; and no awards close to retirement age) the Government intends to make. Further details of how Distinction Awards will operate in future will be contained in one of the Working Papers which will be published shortly.

### Senior House Officers

- Q. A Senior House Officer who has been on the maximum of the scale for at least a year, will get a rise of 14%. Is this not inconsistent with your refusal to give a 13.7% increase to consultants on their maximum with A+ distinction awards?
- A. Because the "Plan for Action" was expected to lead to an increase in the average length of time spent in the SHO grade. Our evidence to (jointly with the profession) the 18th Review about the introduction of the Staff Grade suggested a further scale point in 1988 with another in 1989. The Government has, therefore, honoured the line taken in that joint evidence. This larger than normal rise is seen as compensation for some SHOs having to wait longer before becoming a registrar.

Q. What is the Government's record on manpower

A. Since 1978, the NHS's medical and dental workforce has grown by 13,867 or 16.3%. The whole time equivalent of doctors and dentists working in the HCCHS increased by 5,900 or 12.8%, to a

total of 52,100 WTEs while the number of general medical and dental practitioners increased by 7,967 or 20.5% to a total of 46,788 under the previous administration, the overall increase was just over 10,000 or 13.4%.

#### Background

(GB)	GMP unrestricted principals(no)	GDP principals(no)	HCCHS doctors and dentists(WTE)	Total workforce
1973	23,965	12,124	38,900	74,989
1978	25,245	13,573	46,200	85,018
1986	29,279	16,640	52,400	98,419
1987	29,808	16,969	52,100	98,885

(Latest figures at 30.9.87)

#### Consultant Expansion

Q. What is happening to the proposed consultant expansion of 2%?

A. The most recent Regional figures suggest that for the year ending March 1988 expansion has been running at about 2.6%. This excludes the 100 pump-priming posts.

Q. How soon will the extra 100 consultant posts be provided?

A. We are dealing with this urgently and will be obtaining bids from health authorities as soon as the scheme has been finalised.

NURSES' PAY AWARD: Q AND A BRIEF

1. RPI figures due to be published tomorrow will show an annual rate above the 6.8% awarded to nurses. You said when publishing your evidence to the Review Body that nurses' pay should not slip back. Has it not slipped back?

You are falling into the trap at looking at one months figures, whatever they may be, in isolation. I assume that the Review Body in making their recommendations took into account what they believe is likely to be the level of inflation throughout 1989. Most forecasters predict that the rate of annual increase in the RPI will fall during the year and if they are right, as I am confident they will be, nurses will continue to be better off in real terms than ever before. [The Tax and Price Index, which is a better measure of the value of the pay settlement is, of course, running at 4.8%.]

2. Nurses are getting below the going rate for pay settlements

On the contrary, the latest (IRS) surveys show that the median level of settlements for the last 3 months of 1988 was 6.5% unweighted (6% weighted). Manufacturing settlements recorded (by the CBI since 1 August 1988) in the current pay round average 6.7%.

3. A mark-time pay rise will not be enough to recruit and retain the nurses/midwives you need

All the signs are that the staffing position is improving. The Review Body's own survey of vacancies suggests an overall vacancy rate of around 3% compared with 3.5% last year. Even more significant are the figures for qualified staff where the vacancy rate has fallen by over 1% from 4.4% to 3.3%. And as the Review Body points out, their survey looked at the position at 31 March 1988 - that is before last year's 18% pay rise and before the introduction of the new clinical grading structure and London supplements.

4. Review Body critical of implementation of clinical grading. (paras 3-5 of Report)

With the benefit of hindsight it is easy to suggest ways in which we might have done things rather differently. I would certainly accept that all of us involved in the exercise - both management and trades unions - should perhaps have done more to explain to nurses the objectives of the new structure and the new basis of grading.

But the Review Body also says that:

- they "continue to believe that the structure opens up important new opportunities for nurses and midwives who wish to remain in clinical practice."
- the Staff Side told them "that these difficulties have not undermined their confidence in the fundamental concepts and objectives of the structure itself".

5. Flexible pay - your proposals will simply shift shortages around the country and between specialties

No. They will enable us to compete more effectively in local labour markets and offer rates of pay which make it less likely that nurses will leave the NHS for alternative employment. It will also make it more attractive, for example, for trained nurses who are returning to employment after a break to re-enter nursing, rather than go to some other local employer. This will increase the number of nurses who are working in the NHS, carry out the vital work for which they have been trained.

6. £5 million is too little for an effective experiment

It is sufficient to cover 10,000-20,000 posts with supplements of £250-£500. If properly targeted this should provide a good indication of the effectiveness of the scheme and of the best way forward.

7. Staff Side will oppose flexible pay

I hope not. They told the Review Body that they were not totally opposed to the principle of local variations in pay and that they might be prepared to discuss an experimental scheme with the Management Side. This is what the Review Body has recommended and I hope they will now accept that recommendation.

8. Senior Educational Grades

We have reached agreement with Staff Side representatives on the outline of a separate, free-standing grading structure for nursing and midwifery educational staff. The new structure consists of seven grades, covering teaching staff from Directors of Nursing and Midwifery Education down to tutors and clinical teachers.

The outline was sent to the Review Body in November, and we hope that agreement will be reached on the details very shortly. We will then ask Health Authorities to regrade posts and report the outcome to the Review Body. The Review Body will then submit a supplementary report as soon as possible, recommending pay scales for the new grades.

9. What about Non-Review Body Groups - are you going to offer them the same increases as Review Body Staff

This is a separate matter. The pay of other NHS staff is negotiated by Whitley Councils. It would not be appropriate for Review Body recommendations, relating as they do to the special circumstances of individual staff groups to be used as a guide in other pay settlements.

10. The increasing gap between Review Body and Non-Review Body Groups

The special arrangements for Review Body groups reflect their special position (re industrial action) and this has been reflected in the pay outcome in recent years. There is nothing wrong in that, provided managerial requirements are still met. I do not accept that "justice" requires equal treatment.

NURSES PAY: 1989 AWARD: BULL POINTS

- Maintains highest ever real terms pay we set last year (6.8% increase matches December RPI figure and compares with a 4.8% increase in TPI).
- 45% real terms increase since 1979. ) (Assumes 6.8% annual increase in RPI ) in pay-round year, to July 1989 in
- 30% real terms increase since 1983. ) line with latest (December) figures.)
- 25% increase in last 2 years.
- Acceptance of our proposals on flexible pay major move towards enabling NHS to respond in pay terms to local labour markets.
- Maximum for London Supplements will be over £1,000 and, with London Weighting, additions can be worth extra £2,000 to nurses in London.

Staff nurses and midwives

- Pay on qualification will be over £8,500 (£10,300 in Inner London).
- Real terms pay up by around  $\frac{1}{3}$  since 1979.
- Estimated average earnings in basic grade will start at £10,100 and rise to £11,500 (£11,800 to £13,400 in Inner London).

More than 3 out of 4 staff nurses and 9 out of 10 midwives are in the higher grades (E and above). For them:

- Real terms pay up by over 50% since 1979.
- Estimated average earnings will start at £11,500 and rise to £13,400 (£13,400 to £15,400 in Inner London).

Nursing and midwifery sisters

- Starting pay in basic grade (F) will now be over £10,800 (£12,800 in Inner London).
- Real terms pay up by over  $\frac{1}{3}$  since 1979.
- Estimated average earnings will start at £12,500 and rise to £13,300 (£14,500-£17,300 in Inner London).

But 3 out of 4 likely to be in higher grade (G). For them:

- Real terms pay up by over 50% since 1979.
- Estimated average earnings will start at £14,300 and rise to £16,600 (£16,300 to £18,600 in Inner London).

Labour's record

- Under Labour, nurses received pay increases of less than the rate of inflation 3 years running.
- In 1976/77, Labour cut nurses' pay by over 10% in real terms.
- In the 5 years between 1974/75 and 1978/79 Labour cut nurses' pay in real terms in 4 of them.
- Nurses pay fell by 21% in real terms in the 5 years to 1979.

PROFESSIONS ALLIED TO MEDICINE: Q AND A

Grading Review?

Review Body urge the Sides to resume negotiations with a view to completing a comprehensive review covering all grades.

Management Side genuinely committed to meaningful negotiations?

Yes. Review Body accept there were genuine attempts last year by both Sides to reach agreement.

Timing and basis of new negotiations?

Up to the two Sides. No doubt that Management Side will approach negotiations with an open mind.

If the grading review is successfully completed, will you urge the Review Body to recommend 'catching up' increases for PAMs next year?

The Review Body make it clear that the completion of a regrading exercise would not necessarily imply a range of pay increases similar to that given to nurses last year. I agree with that.

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## TSRB General

### (i) General line to take

Basic increase is 5 per cent. Other increases targeted at particular difficulties within paybill cost of 6½ per cent. Government have not hesitated to accept substantial increases targeted on specific problems. But there is no general problem and so no justification for large across the board increases.

### TSRB warn of big pay increases necessary next year?

Increases next year, as now, should be based on what is necessary to recruit, retain, and motivate, within what can be afforded.

TSRB held down increases this year because of concern about inflation?

TSRB made own judgement in light of Government's economic evidence and recruitment and retention position. Do not believe that recruitment and retention position would justify more than TSRB has recommended.

### (ii) Senior Civil Service

Increases not enough for recruitment and retention in longer term?

TSRB took account of this in forming their recommendations for senior civil service which Government has accepted. Increases targeted on London and rewarding merit. Total package substantial.

- (a) Basic increase of 5%;
- (b) New London allowance of £2,000 worth 5% to grade 3s in London;
- (c) Increased quota for performance from 25% to 35%.

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**Quota for discretionary performance point demotivating?**

Government has accepted TSRB recommendation that quota should be raised from 25% to 35%. Any system must have financial constraint to ensure proper targeting and value for money otherwise "buns for all". In present system this role performed by quota.

**Implications for other civil service salaries with 25% quota?**

Not directly, but shows Government is prepared to respond where quota would produce inequitable results - subject always to maintenance of proper reporting standards.

**Quality of graduate recruits deteriorating and in due course will affect the Senior Open Structure?**

Quality of recruitment fluctuates from year to year. 1988 was good year for fast stream (AT) recruitment though 1989 looking less good. No evidence at all of diminution in high standards of senior open structure, nor those below, 1988 flexible pay agreements for grades 5-7 important in targeting pay on recruitment and retention needs and rewarding performance.

**The best are leaving the Civil Service**

Not true. [This is what people who had left told TSRB. They would, wouldn't they?]

**Abolition of London Weighting for Grade 3s in 1985 mistake?**

No. Decision made in light of circumstances at the time. Circumstances now different.

**Why did Andrew Report make recommendations for pay of lawyers in Senior Open Structure?**

See separate brief on Andrew Report.

(iii) Judiciary

Why are Immigration Adjudicators to receive such large increases?

Only 13 Immigration Adjudicators, first included in review body's remit during 1988 TSRB round. Review body did not then have opportunity to carry out a full evaluation of their proper place in salary structure. Having considered all evidence this year review body decided group 7 appropriate place. Chief Immigration Adjudicator and Vice Presidents will also move up in order to maintain appropriate differentials.

Will Lord Chancellor's salary be increased?

Lord Chancellor's salary determined by reference to that of Lord Chief Justice over whom he has a lead of £2,000. Subject to affirmative resolution in both Houses salary will be increased to £91,500.

Problem with recruitment to circuit bench?

Longstanding problem not wholly to do with pay. Lord Chancellor welcomes review bodies' undertaking to look into the position of circuit bench in its next review.

(iv) Senior Military

Why reject TSRB proposal on pay of 2 star Generals?

The Government considers it wrong in principle to link pay which has no performance element to a performance point. However, the link to the pay of Grade 2 civil servants agreed by the Government will give 2-star officers the same salary as that recommended by the TSRB.

## NHS FINANCING

### What will it cost?

1. Total UK cost in 1989-90 of awards is £758 million. Inflation factor built into existing NHS provision covers £510 million of this. Health authorities will be asked to meet a further £44 million from their cost improvement programmes. Remaining £204 million will be met from Reserve.

### Health expenditure in 1989-90

2. NHS net expenditure in UK will be increased by £204 million to £24,715 million. This is £1,899 million more than the estimated outturn for 1988-89 (£22,816 million). When the effects of reduced employers' superannuation contributions and health authorities' new cost improvement programmes and income generation schemes are taken into account, the total increase in resources compared with 1988-89 will be 5.5% higher in real terms.

### Health authority cash limits

3. These will be increased by £142 million (£114 million in England, £16 million in Scotland, £6½ million in Wales and £5½ million in Northern Ireland). In addition, £62 million will be provided from the Reserve for the Family Practitioner Services (of which £49 million in England, £7 million in Scotland, £3½ million in Wales and £2 million in Northern Ireland).

### Will Scotland, Wales, Northern Ireland increases give what is needed, or only formula increases?

4. Increases in Scotland, Wales and Northern Ireland are calculated as what is necessary to fund the pay awards (less the contribution from existing provision, including from cost improvement programmes).

What about future years?

5. Provision for 1990-91 onwards will be reviewed in the public expenditure survey. Decisions will be announced in the Autumn Statement.

Contribution from efficiency savings represents cut in services?

6. No. Modest contribution, reflects a balance between the need to make continuing improvements to services and the need to minimise the call on public expenditure.

More money needed this year to prevent cuts in services?

7. Health authorities were getting substantial real term increases even before this announcement. Any uncertainty they may have had over the financing of review body awards is now removed, thanks to early statement.

Further increases to meet other NHS pay settlements?

8. No. Cost of pay awards to other groups (a significantly smaller proportion of the pay bill than doctors and nurses) will have to be met from cash limits, like other price changes.

NHS review

9. The provision for spending on health in 1989-90, already announced (in the Autumn Statement and Public Expenditure White Paper), included the likely costs of preparing for the reforms announced in the NHS review White Paper. Over time, any extra costs should be offset by the improved efficiency stemming from the reforms; the costs and savings in future years will be considered in the annual public expenditure surveys.

Clinical academics

10. Cost of doctors' pay award, as it affects clinical academics, is £7.3 million. Of that, £4.5 million is already in existing provision and £2.8 million will be provided from the Reserve.



Review Body Recommendations and Awards 1971 to date

YEAR	REVIEW BODY	RECOMMENDED	IMPLEMENTED IN FULL BY YEAR DUE DATE (1 APRIL EXCEPT WHERE SPECIFIED)	STAGED BUT IMPLEMENT IN FULL BY YEAR END (FIRST STAGE)	STAGED (FIRST STAGE)	ABATED TO	PRE-DETERMINED BY PAY POLICY	NOTES	RPI (APRIL ON APRIL)	TPI (APRIL ON APRIL)
1977	AFPRB TSRB	5% -Judiciary -Others	Yes Yes (1 Jan 1977) Yes (1 Jan 1977)	- - -	- - -	- - -	) Phase 2 of the "Social settlements to 5% with a minimum of £2.50 pw and maximum of £4 pw	-AFPRB awarded 10% pay policy norm plus 3% for introduction of x factor awarded from 1.4.78. Full implementation would be brought into effect April 79 & April 80	17.5	16.3
1978	AFPRB DDBR TSRB	32% 10% 35% -Judiciary -Others	- Yes - -	- - -	13% - - -	- 10% 10%	) Phase 3 of the "Social Contract" provided for a 10% norm and the intended Phase 4 Limit of 5% was abandoned when the Labour Govt lost office		7.9	2.1
1979	AFPRB DDBR TSRB	32.5% 25.7% 22.9% 23.2% -Judiciary -Others	- Yes - -	24.2 - 12.5 13.4	- - - -	- - - -		) For the AFPRB, 24.2% implemented by Labour Government prior to 1979 Election Incoming Conservative Govt implement 8.3% to fully implement RB recommendations	10.1	12.3
1980	AFPRB DDBR TSRB	16.8% 31.4% 35.7% 38.2% -Judiciary -Others	Yes Yes - -	- - - -	- - - -	- 12.6% 12.6%			21.8	18.4
1981	AFPRB DDBR TSRB	10.3% 9% 12% 12% -Judiciary -Others	Yes - - -	- - - -	- - - -	- 6% 7% 7%		- DDBR Recommended 9% Govt implemented 6% ) 1981 TSRB interim report recommended increases averaging 12 per cent to bring the salaries they recommended for 1 April 1980 in their 1980 report up-to-date Government abated award	12.0	15.7

Review Body Recommendations and Awards 1971 to date

YEAR	REVIEW BODY	RECOMMENDED	IMPLEMENTED IN FULL BY YEAR DUE DATE (1 APRIL EXCEPT WHERE SPECIFIED)	STAGED BUT IMPLEMENT IN FULL BY YEAR END (FIRST STAGE)	STAGED (FIRST STAGE)	ABATED TO	PRE-DETERMINED BY PAY POLICY	NOTES	RPI (APRIL ON APRIL)	TPI (APRIL ON APRIL)
1982	AFPRB DDRS TSRB	6.1% 6% 24.3% 19.4%	Yes Yes -	- - -	- - -	- 18.6% 14.3%	-	) DDRB recommended 6% plus restoration of 1981 abatement (worth 9%) Govt implemented 6%	9.4	9.7
1983	AFPRB DDRS TSRB	7.2% 7% 11.7% 11.7%	Yes - -	7% 4.5% 5.85%	- - -	- - -	-	DDRB recommended 7% plus 2.7% restoration of 1981 abatement (9.7%). Govt accepted but staged implementation of restoration from 1 Jan 84	4.0	3.5
1984	AFPRB DDRS TSRB  NPRB	7.6% 6.9% 6.5% 6.5% 7.5% 7.8%	- - - - 7.5% 7.8%	4.92% 4.63% 4.46% 4.46% - -	- - - - - -	- - - - - -	-	-	5.2	6.4
1985	AFPRB DDRB TSRB  NPRB	7.3% 6.3% 16.3%  12.2% 17.6% 8.6% 12.1%	Yes - -	5.3 (1 June) 7.1 (1 July)  5.1 (1 July) 7.3 (1 July) 5.6 5.6	- - - - - - -	- - - - - - -	-	-	6.9	4.1
1986	AFPRB DDRB TSRB  NPRB	7.46 7.6 6.7 6.5 7.8 8.2	- - - - - -	5.6 5.7 3.1 3.0 5.85 6.15	- - - - - -	- - 4.1 (& staged) 4.0 (& staged) - -	-	-	3.0	1.2

Review Body Recommendations and Awards 1971 to date

YEAR	REVIEW BODY	RECOMMENDED	IMPLEMENTED IN FULL BY YEAR DUE DATE (1 APRIL EXCEPT WHERE SPECIFIED)	STAGED BUT IMPLEMENT IN FULL BY YEAR END (FIRST STAGE)	STAGED (FIRST STAGE)	ABATED TO	PRE-DETERMINED BY PAY POLICY	NOTES	RPI (APRIL ON APRIL)	TPI (APRIL ON APRIL)
1987	AFPRB	5.96	Yes	-	-	-	-		4.2	2.5
	DDRB	7.7	Yes	-	-	-	-			
	TSRB	-Judiciary -Others -Nurses -PAMs	4.8 - - Yes Yes	4.25 4.25	-	-	-	-		
	NPRB	9.5 9.1	-	-	-	-	-			
1988	AFPRB	6.4	Yes	-	-	-	-			
	DDRB	7.9	Yes	-	-	-	-			
	TSRB	-Judiciary -Others -Nurses -PAMs	7.4 5.4 15.3 8.8	4.0 4.0	-	-	-	-		
	NPRB		Yes Yes	-	-	-	-	Nurses Subsequently retested at 17.9% in the light of the regrading outcome.	3.9	1.7
1989	AFPRB	6.8	Yes	-	-	-	-			
	DDRB	8.8	No	-	-	8.2	-		6.8	4.8
	TSRB	-Judiciary -Others -Nurses -PAMs	6.5 6.5 6.8 7.7	-	-	-	-	-	(Dec on Dec)	(Dec on Dec)
	NPRB		Yes Yes Yes Yes	-	-	-	-			

CONFIDENTIAL until announcement at  
4 p.m. 16 February 1989

ANDREW ROBERT

46

HMT Ref: 3-0378

FOR ANSWER ON 16 February 1989

TREASURY

C - Gainsborough and Horncastle

298 Mr Edward Leigh

To ask Mr Chancellor of the Exchequer, whether he will make a statement on the pay of Civil Service lawyers at grades 2 and 3.

MR PETER BROOKE

As indicated by my rt hon Friend the Prime Minister's reply to my hon Friend the Member for Salisbury on 19 January (col 263) the Government has consulted the TSRB on the proposals affecting the pay of grades 2 and 3 lawyers in Sir Robert Andrew's report on the Government Legal Services.

From 1 April 1989 greater use will be made of personal pay points on a selective basis for lawyers at these grades. Awards will be related to lawyers' skills, experience, marketability and value to the department, taking account of the view of the Head of the Government Legal Service in individual cases. The Government will give further thought, with the TSRB, to the implications for the development of performance pay at grades 2 and 3.

Lawyers in London at Grade 3, in common with other Grade 3 civil servants, will benefit from the Government's acceptance of the TSRB's recommendation of a London allowance of £2,000.

CONFIDENTIAL until 4.00 PM 16 FEBRUARY  
then Unclassified

ANDREW REPORT

Details?

Sir Robert Andrew's report on the Government Legal Service was published on 19 January. The Prime Minister's statement said that the Government was consulting the TSRB on his recommendation affecting the pay of lawyers in the Senior Open Structure. That has now been done. See Paymaster General's statement.

What was recommendation?

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.

Why did Andrew Report make recommendations for pay of lawyers in Senior Open Structure?

Sir Robert Andrew dealt with structure of whole Government legal service; his report made clear his recommendations for lawyers in Senior Open Structure were made to Government - who naturally consulted TSRB in this aspect.

What's special about lawyers?

Selective increases for lawyers designed to reflect marketability and value of lawyer to department ie respond to recruitment and retention factors.

No London allowance for grades 2 and 3 lawyers (Andrew report suggested special lawyers' allowance of order of £3000)?

Government has accepted TSRB recommendation of London allowance of £2000 for all grade 3 civil servants. Special allowance for London lawyers therefore inappropriate. As Andrew recommendation said, personal pay points can take account of London factor as appropriate.

What are personal pay points?

In principle, all points on grade 2 and 3 scales, including discretionary points, can be used as personal pay points.

How many lawyers will get them?

Intention is that arrangements should be applied selectively, and criteria applied strictly. Experience across departments likely to vary considerably. Treasury expects that only a minority across the service as a whole will qualify.

Andrew envisaged increase of up to £10,000 a year for London lawyer in post of highest job weight, skills and marketability?

Andrew saw this as rough guide, for the most exceptional cases. [If pressed grade 3 lawyer in London, now on £39,000, could see pay rise to £49,600 if awarded top personal pay point, with £2,000 London allowance.]

Personnel management questions: refer to Mrs Harrop, Lawyers Management Unit, 270-5603.

Extract from TSRB report No 20 May 1983 (Cmd 8881-1)

#### **Lord Chancellor**

42. As we have commented in the past, determining the salary of the Lord Chancellor presents difficulties because of the special nature of the job. The Lord Chancellor has several roles as a Minister and as head of a department, as the constitutional head of the judiciary, and in presiding over the House of Lords. When deciding our recommendations we have to consider both the ministerial and the judicial pay structure. This has led us to conclude in previous reviews that the salary of the Lord Chancellor should be the same as that of the Lord Chief Justice. We have considered this relationship again in this review. Having regard to the pre-eminent position of the Lord Chancellor in the judiciary and his responsibilities as a whole, we have concluded that a more appropriate relationship would be established if he were to be paid rather more than the Lord Chief Justice. We recommend that the appropriate salary for the Lord Chancellor, as at 13 June 1983, is £62,000. The recommended salary also includes an element of £8,500 to be paid in recognition of the Lord Chancellor's function in presiding over the House of Lords. In making this recommendation we have been concerned to set the appropriate salary for the position, and have taken no account of the fact that the present Lord Chancellor does not draw the full salary.

43. *Recommendation.* We recommend that, as at 13 June 1983, the appropriate salary for the Lord Chancellor is £62,000, to include £8,500 in recognition of his function in presiding over the House of Lords.

Extract from the TSRB Report No 26 ( Cm 362 )

### Other matters

**Pension arrangements for  
the Prime Minister,  
Mr Speaker and the  
Lord Chancellor**

43. Statutory pensions are attached to the offices of the Prime Minister, Mr Speaker, and the Lord Chancellor. They have a long tradition and date from 1937 for the Prime Minister, and from 1832 for Mr Speaker and for the Lord Chancellor. They are not related to length of service. When we last looked at this matter in 1971 we recommended appropriate amounts. We also recommended that consideration should be given in the future to expressing these amounts as a proportion of salary, so removing the need to reconsider them on each occasion that the salary is revised. These recommendations were accepted. The holder of each of these three offices is currently entitled to a pension expressed as a fixed fraction of the final salary entitlement for the office in question. The parliamentary salaries payable to the Prime Minister and Mr Speaker are not included in the calculation.

44. The current salary entitlements, fixed fractions, and pension entitlements are as follows:

<i>Office</i>	<i>Salary entitlement</i> £	<i>Fraction</i>	<i>Pension entitlement</i> £
Prime Minister	45,787	15/40	17,170
Mr Speaker	35,887	20/40	17,944
Lord Chancellor	83,000	17/40	35,275

45. Pensions in payment of retired office holders are increased annually in line with increases in the Retail Prices Index, subject, however, to a capping restriction which ensures that the pension concerned does not exceed the pension entitlement of the current office holder.

46. The Lord Privy Seal invited us to review these arrangements. In particular he asked us to consider whether the link between salaries and pensions remains appropriate; whether, if so, pensions should be based on the current fractions of salary or on some larger fractions; whether, in the case of the Prime Minister and Mr Speaker, the fraction should be applied to the total salary including the parliamentary element; whether the Prime Minister and Mr Speaker might be permitted to contribute, as other Ministers and paid office holders can, to the parliamentary pension scheme; if so, whether any such contributions could be made in respect of past service; and whether the capping restrictions on pensions in payment continue to be justified.

47. We have considered these issues and have concluded that the practice of linking the pension entitlements of these great offices to final salary, irrespective of length of service, continues to be fully justified. However, we take the view that a number of detailed changes should be made to the present arrangements.

48. We see no continuing grounds for basing these pensions on different fractions of final salary and we consider that current and future holders of all three offices should be entitled to pensions of one half of their final salaries, which is Mr Speaker's existing entitlement. This would result in an increase in the current pension entitlement of the Prime Minister from £17,170 to £22,894, an increase of 33.3 per cent; and an increase for the Lord Chancellor from £35,275 to £41,500, an increase of 17.6 per cent. We believe these changes should be regarded as corrections of anomalies. The pension entitlement should continue not to be

affected if an office holder draws a lower salary than that to which he or she is entitled; and should also continue to be linked solely to the final salary of the office in question. It would not be appropriate in our view for the calculation to include the parliamentary salaries of the Prime Minister and Mr Speaker.

49. We considered in 1971 that holders of these two offices, who are in receipt of parliamentary salaries, should be able to participate in the pension scheme for MPs. We continue to hold this view, since we see no sufficient reason why they should be at a disadvantage compared with other Ministers and paid office holders, and recommend accordingly. However, we do not consider that this change, if implemented, should be retrospective in effect and apply to past service.

50. Finally, we see no grounds for continuing the capping restrictions which are applied to increases for pensions in payment. We consider that in respect of future increases in pensions these restrictions should be removed for past as well as current and future office holders.

51. **Recommendations.** We recommend that current and future holders of the offices of Prime Minister, Mr Speaker and Lord Chancellor should be entitled to pensions of one half of their final salary entitlement for the office in question; that the holders of the offices of Prime Minister and Mr Speaker should be able to participate in the pension scheme for MPs but that this should not be allowed retrospectively; and that the capping restrictions which are applied to pension increases for pensions in payment should be removed in respect of future increases in pension for past as well as current and future office holders.

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ANNEX F

Not new - Seen by  
Ministers last  
year.

DEFENSIVE BRIEFING

Why is Lord Chancellor paid more than other Cabinet Ministers?

[Cabinet Minister in Commons £52,627; Cabinet Minister in Lords £41,997].

Because of his triple function as head of the judiciary, Speaker of the House of Lords, and member of the Cabinet. In recognition of his headship of the judiciary a slight salary lead is given over the salary of the Lord Chief Justice. This follows a recommendation by the TSRB in 1983.

Why the need for an annual Order in Council?

Other Ministerial salaries established from 1 January 1989 by Order in Council approved on 21 December 1988. Not possible to do this for Lord Chancellor because of need to maintain slight salary lead over Lord Chief Justice. Latter salary determined from year to year on basis of TSRB recommendations.

Lord Chancellor/senior people paid too much already?

These salaries follow recommendations made by the independent Top Salaries Review Body. These salaries are well below salaries paid to people with equivalent responsibility in the private sector - as TSRB report makes clear. To pay less would, unless differentials were to be compressed, mean less for everyone and problems in recruitment and retention. In particular it would be difficult to recruit judges if remuneration package (taking account of judges pension scheme) is not made reasonably competitive with earnings at the Bar.

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**GENERAL - PENSIONS**

1. **When did the TSRB report?**

At the end of March 1988

2. **When was the report published?**

On 24 May 1988 along with the Government's statement  
(WA 24 May 1988 Vol 134 No. 158 Col 104)

3. **When were the various elements of the report last reviewed?**

Parliamentary pensions and Lords severance pay in 1983; office holders in 1971.

4. **What, if any, recommendation by the TSRB have you rejected or modified?**

None

5. **Are Parliamentary/Officeholder pensions tax free?**

No

**OFFICEHOLDERS' PARTICIPATION IN PARLIAMENTARY PENSION SCHEME**

6. **Do you accept the idea that officeholders' should be allowed to take part in Parliamentary basic/supplementary scheme, subject to Trustees' agreement?**

Yes

7. If so, how do you justify their participation in such a fast accrual scheme? Why should they not make their own private, personal arrangements?

In our written evidence we explained that officeholders were able, under the 1986 Social Security Act, to purchase free standing AVCs or take out personal pensions. TSRB were aware of this but still concluded no reasons why officeholders should be at disadvantage compared with other Ministers through exclusion from scheme.

#### UNCAPPING OF RETIRED OFFICEHOLDERS' PENSIONS

8. Please explain in one paragraph what this means in plain straight-forward terms.

Legislation is required to uncap. When that legislation has received Royal Assent, pension levels then in payment to former officeholders will be subject to full inflation proofing. Precise level of starting point for such pensions will depend, inter alia, on increases in current officeholders' salaries between now and Royal Assent.

9. What is the estimated total cost?

Depends entirely on starting level of pension and rate of inflation

10. When do you envisage legislation to implement?

1989-90 session

11. What is the earliest the change could be introduced?

Royal Assent

**AMENDMENT TO OFFICEHOLDERS' PENSIONS**

12. What is the justification for the current 15/40 ratio for Prime Minister and Lord Chancellor? Why should they be different from normal 20/40 ratio.

Current ratios embody recommendations of 1971 TSRB Report. Purely historical. No logical justification. Government accepts this is anomaly.

13. What is the current standard ratio in the Civil/public service?

40/80ths

14. What is the total estimated cost of the proposed changes?

On current levels of salary, PM's pension would rise from £17,290 to £23,055; Lord Chancellor's from £37,081 to £43,625

15. Is it proposed these changes should be implemented retrospectively or from the date of Royal Assent?

Royal Assent

16. What is the earliest date from which the increased pensions could apply? Is there a place reserved for this legislation next Session?

Prospectively 1989-90 session.

17. How can pension increases of 33% and 17.5% be justified? Is this the kind of example the Prime Minister wishes to set to industry?

Recommended by independent TSRB after careful review.

BRIEFING NOTE FOR MINISTERS

Factual

1. In July 1987 the Lord President invited the Top Salaries Review Body to undertake a review of the Parliamentary pension scheme, the pensions of certain office holders (the Prime Minister, the Speaker and Lord Chancellor) and Ministerial severance pay. The Report was published 24 May 1988. The recommendations fall into two categories: (i) those solely affecting the Parliamentary scheme on which the Government have consulted the Trustees; (ii) those relating to Ministers and office holders, which we accept. The attached PQ sets out the Government's response (WA 24 May Vol 134 No 158 Col 104).

OFFICE HOLDERS

2. The TSRB recommend

(i) entitlement of all three office holders to a common pensions ratio fixed at half the final salary;

(ii) holders of the office of Prime Minister and Speaker to be allowed to participate in the Parliamentary scheme (but not retrospectively); and

(iii) the uncapping of the restrictions on pensions increase for office holders (past as well as current and future).

The first recommendation means that the entitlement of the current and future Prime Ministers would rise by  $33\frac{1}{3}\%$  and of the Lord Chancellor by 17.6%.

SEVERANCE PAY

3. The TSRB recommend the introduction of severance pay for Commons Ministers. The payments would not be taxable.

**Q & A: PENSIONS**

**GENERAL**

1. Why were Parliamentary pensions referred to TSRB?

During the passage of the Parliamentary and other Pensions Act 1987 there was a feeling among MPs that the time had come for an independent review of certain apparent anomalies in the scheme. It was felt appropriate that at the same time the pensions of the Prime Minister, Speaker and Lord Chancellor should also be reviewed.

2. Who gave evidence to the TSRB for the Government?

The Lord President accompanied by officials. None of the office-holders gave evidence.

**OFFICE HOLDERS**

3. Did the Government make specific proposals about the office-holders?

No. The evidence was factual. It advanced no specific proposals.

4. Why should office-holders get fixed pensions, however short or long their service in office (eg. Lord Havers after a few months)?

Long tradition that this is appropriate to dignity of these offices. TSRB conclude that practice of linking entitlements for these great offices, irrespective of service, continues to be fully justified.

5. Why agree to uncapping of pension increase?

Recommended by TSRB after independent review. They say that "capping" is anomalous. Uncapping will not apply to past pensions increases - only to those in the future. No good ground for rejecting the recommendation, which will put office-holders on same footing as other Ministers and all public service pensioners.

6. What is the Lord Chancellor's pension now and what will it be?

£37,081. On current salary rates the new pension would amount to £43,625 and if the Order is passed the figure will be £45,750. Given the dignity of the office, these figures are not unreasonable. The Lord Chancellor will simultaneously be removed from the Lords Severance Pay Scheme.

7. What is the Prime Minister's pension now and what will it be?

£17,290. On current salary rates the new pension would amount to £23,055. The former is less than a long serving Civil Service Under Secretary could expect. The new pension is still less than a long serving Civil Service Deputy Secretary. Most PMs (and other office-holders) spend decades in public life. Not unreasonable that their pensions on retirement should be somewhat higher than those of middle level civil servants. Still lower than some top civil servants could get.

8. How justify 33% increase for PM under half salary ratio?

Recommended by independent TSRB after careful review. They consider present different ratios for Speaker (20/40), Lord Chancellor (17/40) and Prime Minister (15/40) an unjustified anomaly. No ground for rejecting their considered recommendation.

9. Will Lord Mackay's service as a judge have implications for TSRB recommendations?

No. As a former judge Lord Mackay is entitled to either a judicial pension or an official Lord Chancellor's pension but not both. He does not need to choose between a judicial and Lord Chancellor's pension until his final retirement from judicial office.

10. Why remove Lord Chancellor for Lords Severance Pay Scheme?

Like Prime Minister and the Speaker, Lord Chancellor receives an ex-officio pension immediately on leaving office: no case for severance payment as well.

#### **SEVERANCE PAY**

11. What is justification for severance pay?

Experience of Lords scheme shows something similar appropriate for Commons. TSRB felt otherwise suitably qualified people would be discouraged from office. In any event payments modest.

#### **LEGISLATION**

12. What will legislation cover?

It will cover Ministerial severance pay and all the recommendations relating to office-holders - uncapping, pensions at half final salary and inclusion of Speaker and PM in Parliamentary scheme.

13. When will legislative change be made?

In 1989-90 session.

14. Why should this issue be a matter for Government decision alone?

Matter for Government to decide to bring forward legislation but, of course, Parliament has the final decision.

### Parliamentary Pensions

**Mr. Alfred Morris:** To ask the Lord President of the Council when the TSRB report on parliamentary pensions is to be published; and if he will make a statement.

**Mr. Wakeham:** During the passage of the Parliamentary and other Pensions Act 1987 there was a feeling among some Members of the House that the time had come for a review of certain features of the parliamentary pension scheme. In my written answer of 24 July at column 502, I explained that I had, therefore, invited the TSRB to review aspects of the scheme, the pensions of the Prime Minister, the Speaker and the Lord Chancellor, and ministerial severance pay. The report was published today and a copy has been placed in the Library of the House. I would like to thank the review body for the time and effort they have devoted to these issues.

The TSRB recommend revised early retirement arrangements under which a full accrued pension would be payable from a "pensionable age" of between 60 and 65, depending on length of service at the date of leaving the House. When the pension is brought into payment before the pensionable age it would be subject to an abatement, to be calculated on a broadly actuarial basis.

The TSRB also recommend that the death in service gratuity should be two years' salary. We will be consulting the trustees of the parliamentary pension scheme on these and the other recommendations affecting the scheme itself, including the suggestion that the holders of the office of Prime Minister and Speaker be allowed to participate in it. Depending on the outcome of those consultations, the Government would expect to lay before the House regulations under the Parliamentary and other Pensions Act 1987.

The remaining recommendations, and that proposing that the Speaker and Prime Minister be allowed to participate in the parliamentary scheme, will require legislation to amend the Parliamentary and other Pensions Acts. We will bring this forward in due course.

We accept the TSRB's recommendations that the holders of the offices of Prime Minister, Speaker and Lord Chancellor should be entitled to pensions of half annual salary, that the cap on pensions increases payable to former office holders should be removed and the recommendations on ministerial severance pay. We propose that these arrangements should apply after the necessary Bill has received Royal Assent.

## Lord Chancellor's Salary Order 1988

**Viscount Davidson** rose to move. That the draft order laid before the House on 5th May be approved [25th Report from the Joint Committee].

The noble Viscount said: My Lords, the need for this order arises out of the link between the salaries of the Lord Chancellor and the Lord Chief Justice. The independent Top Salaries Review Body recommended in 1983 that the Lord Chancellor should be paid more than the Lord Chief Justice in recognition of his position as the head of the judiciary and of his wider responsibilities. The House accepted the principle of the TSRB recommendation and has successively re-affirmed this with the approval of the Lord Chancellor's Salary Orders for the years 1984 to 1987.

An annual Lord Chancellor's Salary Order is necessary because the Lord Chief Justice's salary is set annually following the recommendations of the Top Salaries Review Body. This year the TSRB recommended a salary of £85,250 for the Lord Chief Justice—a 5.3 per cent. increase. The Government accepted this figure but decided to stage all the TSRB recommended salaries so that a 4.0 per cent. increase was paid from 1st April with the balance from 1st October. For the Lord Chief Justice this meant a salary of £84,240 from 1st April to 30th September, and £85,250 from 1st October.

The Lord Chancellor has a salary lead of £2,000. The House accepted this figure in 1983, and it has remained at that level since. Its real value has eroded since it was first established, but this of itself is not a valid reason for changing it. The lead exists because the Lord Chancellor is head of the judiciary and this makes it right that an appropriate differential should exist between him and the Lord Chief Justice. A lead of £2,000 fulfills such a requirement.

The other establishes the Lord Chancellor's salary at £86,240 for the period between the date when it comes into force—it cannot be made retrospective—and 30th September. From 1st October it is established at £87,250.

These salary levels derive directly from the TSRB report and embody a principle established five years ago and accepted by the House on five previous occasions. I hope that once again it will commend itself to the House this year. I commend the order to the House.

Moved, That the draft order laid before the House on 5th May be approved [25th Report from the Joint Committee]. —(Viscount Davidson.)

**La - Lord Bruce of Donington:** My Lords, the relationship between your Lordships' House and another place is obviously most harmonious, and happily so, since I observe that the order went through the other place "on the nod" on 26th May.

Under the provisions of the draft order, the noble and learned Lord the Lord Chancellor will receive a gross raise per annum on a full year of some £4,250. Your Lordships will perhaps note that owing to the provisions of the last Budget, and in terms of a net pay increase, which, after all, the noble and learned Lord will be sufficiently human to regard as his extra

reward in the matter, he will receive in a full year some £13,000 a year more than he received in what may euphemistically be termed take-home pay during the preceding full year.

Perhaps it may be of interest for your Lordships to recall that in 1979 the Lord Chancellor—at that time the noble and learned Lord, Lord Elwyn-Jones—received some £20,000 a year gross. It is quite clear that matters have marched on considerably since that time. Whether that is due to the activities of the review body or to the rate of inflation is immaterial.

It is interesting to observe that the take-home pay of the Lord Chancellor in the next full year will be many times a multiple of the gross income received by some of the poorer sections of our community. That indicates that, in the march to a rather greater degree of fairness than exists at the present time, we still have a long way to go.

On the other hand, if one considers relativity it should perhaps be borne in mind that the new salary of the Lord Chancellor will be very much less than is at the moment fashionable among the leading captains of industry, who have been known to award themselves £1 million a year, or even more, as what are euphemistically called the nation's creators of wealth. We on this side of the House have not the slightest hesitation in saying that on a value for money basis—a term which I am sure is very close to the hearts of Her Majesty's Government—the noble and learned Lord the Lord Chancellor represents infinitely better value for money than some of those so-called captains of industry. For that reason we are very happy indeed to concur with the terms of the order.

The noble and learned Lord has always shown himself—as have his predecessors—most accessible to Members of your Lordships' House, and is always very co-operative in any inquiries that are made of him. He has a formidable task before him and he should be sustained in that task by remuneration of the kind proposed in the order.

There is a long way to go before all the subjects of Her Majesty are equal before the law. The recent review which is being considered by the noble and learned Lord marks some endeavour to ensure that the myth of all Her Majesty's subjects being equal before the law ultimately becomes a fact. That endeavour will need many labours by the noble and learned Lord in bringing to your Lordships' House those measures of which he is so conspicuously capable. Those measures are necessary in order to ensure that there is a greater measure of fairness and justice, not only in the administration of the law itself but also in its availability to those citizens who are unfortunately unable to amass the kind of resources that would enable them to combat cases brought by very large commercial enterprises or to bring cases against such enterprises, which are able to afford vast fees for legal advice and for the employment of counsel. We shall observe with interest and indeed give every possible encouragement to the noble and learned Lord in those endeavours, which we sincerely hope he will undertake.

We on this side of the House welcome the order laid before your Lordships. We welcome also its

[LORD BRUCE OF DONINGTON.]

pensions implications, although we trust that, subject to the harsh arbitrament of political arithmetic, his retirement may be long deferred. We support the Motion.

**Viscount Davidson:** My Lords, I am most grateful to the noble Lord, Lord Bruce of Donington, for his reception of the order. I was interested to hear his accountant's view of various matters. I am sure that my noble and learned friend will also be most grateful.

On Question, Motion agreed to.

**The Earl of Arran:** My Lords, I beg to move that the House do now adjourn during pleasure until 8.15 p.m.

Moved accordingly, and, on Question, Motion agreed to.

[*The Sitting was suspended from 7.25 to 8.15 p.m.*]

Commons 26 May 1988

#### LORD CHANCELLOR'S SALARY

*Resolved,*

That the draft Lord Chancellor's Salary Order 1988, which was laid before this House on 5th May, be approved. —

[*Mr. Kenneth Carlisle.*]

1. What are Budget changes in occupational pensions?

The Chancellor announced important changes to the tax rules for occupational pensions. To simplify and permit greater flexibility in pension rules (and lift administrative burden from employers and pensions managers), tax advantage is to be withdrawn from pension benefits arising from earnings in excess of £60,000. *New*

*tax regime will be simpler and more flexible.*

2. What do they mean?

Changes mean that - in respect of earnings over £60,000 only - there will be no tax relief on employee or employer contributions; there will be no tax-free build up of pension fund; lump sum benefits will be taxed.

3. Who is affected?

This applies to new pension schemes introduced after Budget day, and to new members of existing pension schemes after 1 June. Existing members of existing schemes will be unaffected. [Sizeable numbers in the private sector are caught; many fewer in the public service.]

4. Scheme amendments?

The Finance Act will override private sector and local government schemes rules, but statutory public service scheme rules will need amending. All such schemes will therefore need to give priority to legal and procedural aspects of amendment. Discussions are proceeding.

5. Top up schemes?

There will be scope for top-up schemes (without tax privilege) to provide benefits on earnings over £60,000. The nature of such top-up schemes for public services has still to be decided. After Royal Assent, therefore, employers will have the flexibility to negotiate pension packages in the same way as salaries but these top up schemes will enjoy none of the tax privileges available to approved schemes.