

PREM 19/674

PART 10 ends:-

Priestley to CAW 26.2.82

PART 11 begins:-

CDL to Sir J. Megaw 1.3.82

PERSONAL

Mr WHITMORE

MEGAW PAY COMMITTEE

1.
 Prime Minister.
 Content with Sir Derek
 Rayner should speak as he
 will make the point
 What - the point
 lot of pay research papers?
 based on the right date -
 that 1 in 92

1. Sir Derek Rayner volunteered to give evidence to the Committee some time ago and will be doing so on 9 March.

2. He has asked me to check with you whether, as he would in giving evidence to a Select Committee, he may say what he thinks within the usual bounds of discretion and common sense. He would not willingly embarrass the Government, but would say, if asked, that he believed in pay research (if properly conducted and if the resultant data were properly used) and that he did not subscribe to the "market forces" theory without reservation.

3. My own advice to Sir DR has been that, given his knowledge of the subject in both the commercial and the Whitehall settings, he is uniquely qualified to advise the Committee; that he is entitled to say what he believes; and that it is unlikely that the Committee itself would trumpet the evidence it is taking.

4. However, Sir DR thinks that the point should be raised with you, for you to refer to the Prime Minister if you think necessary. I should be grateful for your advice as early as possible next week.

CP

C PRIESTLEY
 26 February 1982

* content - if that is what he believes. (I think it is)

—
 out



cc JV
2990

Treasury Chambers, Parliament Street, SW1P 3AG

01-233 3000 26 February 1982

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M Scholar Esq
Private Secretary
No.10 Downing Street
LONDON SW1

Dear Michael

EVIDENCE FOR MEGAW : NO STRIKE ARRANGEMENTS

... The Megaw Committee has asked for a paper giving an appreciation of the history of no strike arrangements as they have operated in the UK, commenting on recent trends, and making observations on relevant foreign practice. I enclose a draft text of a largely factual paper which has been approved by the Chancellor of the Exchequer.

I would be grateful for early agreement to the text of this paper. Sir John Megaw has now asked for all outstanding papers requested by the Committee to be provided by the end of next week. You may also wish to be reminded that the Prime Minister commented on an earlier paper that she would wish to consider the possibility of providing further evidence on no strike provisions covering the Civil Service once Ministers had considered the report of MISC 65. (This report has now been submitted).

I am copying this letter to the Private Secretaries to the Chancellor of the Duchy of Lancaster, the Secretaries of State for Defence, Social Services and Employment, the Attorney General, Lord Advocate and Sir Robert Armstrong.

Yours ever

Peter

P S JENKINS
Private Secretary

HISTORY OF NO STRIKE ARRANGEMENTS IN THE UK

1. The Committee has asked for a paper giving an appreciation of the history of no strike arrangements as they have operated in the UK. This paper describes the law governing strikes and other industrial action in the UK and the various attempts there have been to prohibit strikes by law. The Committee has asked also for comment on recent trends, and observations on relevant foreign practice.
2. An earlier paper on no strike agreements in the UK public services describes the existing statutory provisions, for example in the police and armed forces; contractual and customary arrangements, for example in departmental and other police forces and in the medical profession; and the recent history of no strike arrangements in the public utilities.

The legal position

3. As the earlier paper explained, the law governing strikes and other industrial action in the US is based on a series of legal immunities which protect in varying degrees trade unions and those who organise and take part in trade disputes from both criminal and civil liability.
4. The immunities to protect trade unions and their members from criminal prosecution for organising and going on strike were granted towards the end of the 19th century and with some exceptions have survived unchanged, and largely unchallenged, since then. The immunities relating to civil liabilities were first conferred by

the Trade Disputes Act, 1906, and are now contained, in an extended form, in the Trade Union and Labour Relations Act 1974 (as amended in 1976). These protect individuals (such as trade union officials) from being sued for injunctions or damages if in the course of a trade dispute they induce or threaten breaches of contract. They also confer immunity on trade unions themselves from civil liability (with certain limited exceptions).

5. The present Government has sought to restrict these ^{civil} immunities in a number of ways. The Employment Act 1980 removed the immunity for individuals in relation to secondary picketing, indiscriminate secondary action and industrial action to compel trade union membership. The Employment Bill, which is currently before Parliament, proposes further restrictions on the immunity for individuals and the removal of the wider immunity for trade unions to bring it into line with that for individuals. Neither the 1980 Act, nor the proposals in the current Bill, prevent or seek to prevent trade unions or their officials from organising primary industrial action in support of the normal kind of trade dispute between an employer and his employees about terms and conditions of employment.

6. This system of immunities has formed the basis of the law governing industrial action for most of this century. There have, however, been a number of attempts to impose legal prohibition on certain forms of industrial action. Apart from those described in the earlier paper, they are discussed below.

(i) The Trade Disputes and Trade Unions Act 1927

7. The 1927 Trade Disputes and Trade Unions Act, enacted in the aftermath of the General Strike of 1926 made it a criminal offence to incite a strike which:

(a) had any object other than, or in addition to, the furtherance of a trade dispute within the trade or industry in which the strikers were engaged; and

(b) was a strike designed or calculated to coerce the Government either directly or by inflicting hardship upon the community.

The maximum penalty for inciting such a strike was two years imprisonment.

8. As far as is known, this provision was never used, and the Act was repealed by the Labour government in 1946. It is, however, difficult to assess the effectiveness of the Act, since historically politically motivated strikes have never been a major feature of British industrial relations, and the position between 1927 and 1946 will also have been heavily influenced by the successive constraints of the Depression and the War.

(ii) Wartime experience

9. There were partial bans on strikes during the First and Second World Wars. Following experience in the opening months of the First World War, a Committee on Production recommended in 1915 that trade practices which restricted output should be abandoned by the Unions, on the understanding that they would be restored at the end of the War, and that all disputes should be referred for arbitration by an independent tribunal. Following agreement

with the main unions involved in armament production, the committee's main recommendations were made law by the Munitions of War Act in 1915. This legislation was however unsuccessful in preventing unofficial action. There were major strikes by for example South Wales miners and Clydeside shipyard Workers, although some of the action was led by local committees of shop stewards with revolutionary socialist connections. The most serious strike of the War in May 1917 spread from Lancashire to most of the industrial centres of Britain, eventually involving 120,000 men. Eight of the leaders were arrested, but released as a condition of the return to work. The government acknowledged soon after that the provisions of the Munitions Act were likely to be ineffective in the face of genuine industrial grievances. A greater measure of recognition for shop stewards was subsequently negotiated, although the shop stewards movement quickly faded in the industrial crisis immediately after the War when martial law was declared in January 1919, and 10 of their leaders were arrested.

10. From the start of Second World War, trade unions and employers accepted both a legal prohibition on strikes and lock-outs and an obligation to submit disputes to binding arbitration which lasted until 1951 (the provisions on compulsory arbitration lasted until 1959). These measures were contained in the Conditions of Employment and National Arbitration Order, 1940 (SI 1940/1305), which provided for a national arbitration tribunal whose awards were enforceable by law. Strikes and lock-outs were illegal unless reported to the Minister of Labour by either party and not then referred by him for settlement within 21 days. Free collective bargaining was allowed to continue, and employers were

under a formal obligation to observe terms and conditions settled by agreement or by arbitration. In practice, official strikes were avoided. There were many unofficial strikes, but few of these resulted in prosecutions. Following a strike at the Betteshanger colliery in Kent in 1941, three union officials were imprisoned, and some 1,000 miners were fined. But when the majority of the miners refused to pay their fines, the court authorities had to be advised not to enforce the fines since the prisons could not cope with the only alternative of imprisonment. In the later stages of the war, reports that some strikes had been caused by political agitation led to a Defence Regulation which made incitement an offence; but for the remainder of the war disputes were dealt with with the assistance of conciliation and arbitration.

11. Although in the years after the war both government and TUC were in favour of maintaining the joint consultation arrangements which had emerged in many sectors of industry, these gradually declined. The majority of unofficial stoppages were still illegal under the terms of the 1940 arbitration order but there were no prosecutions until a change of approach in 1950 which led to several convictions. Following union pressure, the provisions were replaced by the Industrial Disputes Order 1951 (SI 1951/1376). This dropped the prohibition on strikes and lock-outs, and also dispensed with the obligation on employers to observe recognised terms and conditions of service. But it still provided for legally binding arbitration at the request of either party to a dispute, and contained a right to report a disputed issue where it was alleged that an individual employer was not

observing agreed terms and conditions. Although arbitration tribunals were still regularly in use, and major official strikes were avoided, by about 1955 both unions and employers were in favour of an end to compulsory and legally binding arbitration. The unions were concerned at the weakening of collective bargaining, and the employers at what they saw as an excessively high level of pay settlements. The government was criticised for the terms of settlement of several major official strikes in the mid 1950s, and in 1959 compulsory arbitration was dropped. The government now concentrated on encouraging industries to secure the observance of their own dispute procedures.

(iii) The Industrial Relations Act 1971

12. The Industrial Relations Act 1971 made far-reaching changes in industrial relations law generally. These included the replacing of the 1906 immunities by a series of restrictions on industrial action, breach of which made the organisers of the action liable to be sued for a new kind of "industrial tort" - the unfair industrial practice.

13. As described in the earlier paper, the Act gave the Secretary of State for Employment the power to apply to the National Industrial Relations Court for an order directing a statutory cooling off period of up to 60 days in any industry if the industrial action was likely to be "gravely injurious to the national economy, to imperil national security....or to endanger the lives of a substantial number of persons". The Secretary of State could also, if circumstances warranted, seek a further order for a secret ballot of all the workers concerned. The provision was used only once, in

the 1972 national rail dispute. The Secretary of State successfully sought orders for a cooling-off period and then for a ballot. The orders were observed, but the result of the ballot was an endorsement of the industrial action, which was then resumed.

14. The 1971 Act also repealed certain provisions of the 1875 Conspiracy and Protection of Property Act which had made it a criminal offence for employees of gas, water and electricity undertakings to break their employment contracts believing that the consequence would be to deprive consumers of the whole or the greater part of their supply. This had meant in effect that it was illegal for employees in these industries to go on strike unless they gave due notice (usually a week) of their intention to break their contract of employment. The Donovan Commission commented that the main value of such a provision was that it imposed a short period of delay before work ceased. It also found, however, that the provisions had been little used. In his evidence to the Commission the then Chairman of the Gas Council could recall only one case in which proceedings under it had been taken. That was in 1950 but the proceedings were withdrawn following a conviction under the emergency powers regulations then in force. The rarity of proceedings under this provision does not necessarily mean that it did not have some moral effect. For industrial action in the industries affected was also exceptionally unusual.

14a. The 1971 Act was in force for just over two years. It was repealed by the Labour Government in 1974.

Legally enforceable collective agreements

15. One other feature of the legal position which is worthy of mention is the absence of legally enforceable collective agreements. In most Western industrial countries collective agreements are contracts which are enforceable by and against those who are parties to them. This fact imposes upon those parties a "peace" or "no strike no lock out" obligation which makes it unlawful to use industrial action to try to change the provisions of the agreement while it is in force, or, in some cases, to try to do so before an agreed procedure for resolving disputes has been exhausted.

16. There is no tradition of legally enforceable collective agreements in British industrial relations. When the Ford Motor Co sought to enforce its collective agreement in the High Court in 1969, Mr Justice Geoffrey Lane (the present Lord Chief Justice) concluded that the wording and nature of the agreements and way in which they were drawn up put them firmly "in the realms of undertakings binding in honour".

17. The 1971 Act made every collective agreement legally enforceable unless it included a specific provision to the contrary; but virtually every agreement concluded during the short period when the Act remained in force included such a provision. As the earlier paper noted it is possible under the present law for the parties to an agreement to decide that it should be legally enforceable, but none has yet done so.

Voluntary agreements

18. This absence of legal regulations on collective bargaining, coupled with the system of legal immunities, means that British industrial relations depend more than most on voluntary agreements and arrangements negotiated by employers and trade union representatives. There is, however, little information available on voluntary agreements which restrict strikes and other forms of industrial action, and the known cases do not provide a sufficient basis for any general assessment of the value of such agreements.

19. The few known cases in which restrictions on industrial action have been negotiated have all occurred during recent periods of economic difficulty or high unemployment. And most of them have been negotiated with employers who are accustomed to the more effectively regulated systems which prevail in most other countries. Thus in 1972 the Clyde Confederation of Shipbuilding and Engineering Unions signed a no strike agreement with the American company Marathon Manufacturing. In 1977, the same group of unions signed a two year no strike agreement with Clyde Dock Engineering. This agreement offered high pay rates, pay guarantees, and binding arbitration in return for an end to stoppages, and flexible working arrangements. In 1980, Toshiba Consumer Products (UK) Limited reopened a Plymouth television factory which had recently closed. This has a novel industrial relations

structure which involves single union recognition, employee representation on a company advisory board, and joint reference to independent and binding "pendulum" arbitration: the arbitrator is required to find for one party or the other, and not to recommend a compromise. This was, however, essentially a procedural agreement rather than a no strike agreement as such.

FOREIGN COMPARISONS

20. The following paragraphs briefly record the relevant experience of four major countries in the matter of no strike provisions: USA, Federal Republic of Germany, France and Australia. These countries are not intended to be a representative sample of the whole, and allowance needs to be made for the particular cultural, social, economic and legal traditions of the countries concerned. But in all four countries the employment regime includes measures (to varying degrees) to prohibit strikes by some or all public servants.

UNITED STATES OF AMERICA

21. In the US it has been held by the Supreme Court that neither the constitution nor the common law provides an absolute right to strike, but the Court has never clearly set out the degree of constitutional protection, if any, to which a strike is entitled. The basic code of US private sector labour legislation is the Labour Management Relations Act 1947 (the Taft Hartley Act), subsequently amended. Collective agreements in the US are legally enforceable, and most of them contain elaborate grievance procedures and either no strike clauses or clauses which allow strikes only in certain defined circumstances. Various strikes are unlawful: strikes during the period of a collective agreement which contains a no strike or arbitration clause, and strikes where the dispute is not between the employer and employee.

22. In the case of federal employees the law governing strikes is complex. Restrictions are written into the Civil Service Reform Act 1978, into Civil Service regulations and into the obligation upon Civil Servants to take on oath of office in which they forswear the right to strike. Civil Servants were prohibited from advocating the right to strike, but the supreme court held this to be in contravention of the constitution's protection of free speech. Some 52% of the 1.4 million federal employees are now organised. The principal union AFGE has not attempted to directly challenge the legal ban on strikes. The 1981 strike by the air traffic controllers union PATCO provided the first direct challenge to the strike prohibition since the 1970 postal strike. The Administration's dismissal of the 12000 PATCO strikers has provided new case law. Apart from the collective dismissal of PATCO

members, 60 lay union representatives had criminal charges brought against them and the union had to defend itself against 50 cases brought against it in different district courts. The union had its bargaining rights removed by the Federal Labor Relations Authority.

23. Many States have laws governing strikes by Public employees. New York, for example, has the Taylor law, which provides that a public employee who breaks the statutory ban on strikes can be subject to a penalty of the forfeit of 2 days' pay for each day of strike action. The application of this provision, however, has usually been challenged in the courts. It does not appear to have been effective in preventing strikes though it may (arguably) have shortened them.

24. Some 90% of all recorded working time lost in strikes in the United States is concentrated in the period after the expiry of a contract and before the signing of a new one.

FEDERAL REPUBLIC OF GERMANY (FRG)

25. There is no formal right to strike as such, but strikes and lock outs are lawful provided that they are in furtherance of improvements in working and economic conditions, and do not break a collective agreement. Collective agreements form the basis of industrial relations, and are legally binding. Strike action is a last resort and the incidence of strikes is among the lowest of OECD countries. While the legal framework may have contributed to this state of affairs, its effects are undoubtedly complemented by the structure of collective bargaining in the FRG: there are relatively few trade unions with clear delineations between them; terms and conditions generally are set at district or 'Land' level and pay bargaining at the plant level involving local officials, is rare. Commentators suggest also that the position has been influenced by a steadily rising standard of living, and a comparatively narrow spectrum of political parties.

26. Career civil servants including the police (Beamte) are prohibited from striking and do not enjoy a right to collective bargaining, whereas unestablished public employees (Angestellte) and 'blue-collar' workers (Arbeiter) may strike and have pay and conditions set by negotiated collective agreements. The overall rate of pay increase for the Beamte is then set by the Government in the light of that given to the other two groups, and is usually the same. Although such settlements have generally been trouble-free, there have been threats of industrial action this year from the unions representing Angestellte and Arbeiter in response to the government's initial proposal of a 1% pay cut. Negotiations are continuing.

FRANCE

27. French industrial relations law is based on positive rights guaranteed to individuals by the constitution and the Labour Code. These rights include a right to strike. Collective agreements are usually concluded nationally, and on an industry basis. They are enforceable at civil law, and may be extended by the Minister to become legally binding on all employees in the sector concerned, whether union members or not.

28. There are limitations on the right to strike. Strikes directed other than to the interests of individuals as employees are illegal but this provision has been loosely interpreted. Certain categories of public servants - the armed forces, police, prison service, air traffic controllers - may not strike. In other fields of public sector employment the Government has powers to forbid strikes in order to save life, preserve national institutions, or to maintain services which are regarded as essential to government action. In order to do so strikes by workers holding particular jobs may be prohibited but this prohibition cannot be applied to a whole denomination of public sector employees. Some public sector employees may also be required to maintain a minimum level of service despite industrial action (eg workers in broadcasting may have to maintain an essential service (news etc).) In addition to these restrictions on the scope for industrial action a number of special conditions have been imposed on the procedures to be observed by public servants before strikes can go ahead (eg advance notice may be required).

29. In areas where there is a high degree of trade union membership, it has been known for the terms of legally enforceable collective agreements to be ignored by industrial action and in other respects, but without penalty against those concerned. However, little more than 20% of all French workers are trade union members, and in most private companies membership rarely exceeds 10%. The law regulating the right to strike in the public sector is complex, rarely invoked and, in many instances, is open to interpretation by the courts.

AUSTRALIA

30. The distinctive feature of Australian industrial relations is the use alongside the common law of statutorily based tribunals which deal with industrial disputes by compulsory conciliation and arbitration. For them to obtain jurisdiction in any particular dispute, it is sufficient for one party to the dispute only to notify the matter to them. Strikes are not illegal as such; but if an award by the Conciliation and Arbitration Commission is met by further strikes, penalties under the law can be invoked. Common law remedies remain, but are rarely used. Some individual state laws make strikes illegal, but the federal law is normally applied. Strikes by Commonwealth public servants are illegal. Under the Commonwealth Employees (Employment Provisions) Act 1977, the penalty can be suspension without salary or dismissal. There have been a number of strikes in the public service, particularly since the mid 1970s. The dismissal provision has not been used, but suspension without salary has been, on several occasions. Use has also been made of a different form of suspension under the Public Service Act 1922 in which the suspension is ended by the decision of the employee to return to work, rather than by decision of the employer.

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16 FEB 1982

PRIME MINISTERLessons from the Civil Service Dispute

You have a meeting on Tuesday morning to discuss the Report of the Official Group, in which I participated, in lessons from the Civil Service dispute (MISC 65). It is a thorough Report, which owes much to Peter Gregson's own drafting; there is a convenient summary in Part 7 (pages 57 - 63).

Morale

The Report pulls no punches about the Government's own responsibility for the climate of industrial relations which led up to the dispute. The main lesson, that the Civil Service Managers must communicate much more effectively with their staff, has already been applied in the current pay offer. As a result, there is now no misunderstanding within the Civil Service as to the nature of the offer and the availability of arbitration, but of course the climate of opinion in the Civil Service will be far more affected by the Government's decisions on the arbitration award and on the TSRB Report.

Cost

In retrospect this turns out to have been a very costly dispute indeed, and one with a number of hidden costs in that the economy had to be managed in a climate of considerable uncertainty over the data. I think we were all rather slow to appreciate the way in which the costs were mounting up.

Management Sanctions

Most of the Group's work has concentrated on ways of strengthening management's hand in any future dispute, and in particular ways of countering the kind of selective industrial action that seems

/ most likely

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most likely to form the pattern in any future dispute. The advice of the main employing departments about the additional sanctions which would be most helpful was clear: either the lay-off provision for white collar workers, or power to dismiss more selectively, would have been useful. Equally, however, all concerned are agreed that it would be counter-productive to take these powers in respect of the Civil Service alone, and lay-off and selective dismissal are measures which have to be considered in the context of employment legislation generally. As you know, the Policy Unit would like to see selective dismissal in particular introduced at the Committee Stage of the Employment Bill if the opportunity arises.

That leaves four measures of considerably less importance on which Ministerial guidance is needed:

i) The taxation of strike pay: we think the Inland Revenue ought to be asked to look at this again.

ii) Ability to discontinue the "check-off" provision in the Facilities Agreement, under which the Government collects Union dues.

iii) The ability to execute a management ballot, which would require some preparatory work being done.

iv) The obligations of Managers in relation to industrial action should be clarified.

No strike legislation

We ensured that the Group looked fully at the possibility of no strike legislation, comparable to the US law which prohibits National Government employees from striking. It rapidly became apparent that such a law is unnecessary, unless the Government wishes to make striking a criminal offence, because striking is already sufficient grounds for dismissal on grounds of breach of

/ contract.

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contract. The objections to using dismissal in this way are of course the selectivity problem (discussed above) and the fact that it is often the key staff, who would be difficult to replace, who take selective action.

J.

J.M.M. Vereker
26 February 1982

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CONFIDENTIAL



✓ CC 50

Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

26 February 1982

Michael Scholar Esq.
10 Downing Street
LONDON
SW1

Dear Michael,

CIVIL SERVICE PAY NEGOTIATIONS

As you know the meeting with the Civil Service Unions on 16 February enabled us to get our position well and truly in the public eye but also made it clear that there was no hope of a negotiated settlement.

The Trade Unions have now told us that they wish to proceed to arbitration "as soon as possible". It is in our interests that this should happen (continuing and fruitless public negotiation would simply heighten the risk of unofficial industrial action without giving us offsetting propaganda advantages). Subject to the Prime Minister's agreement therefore I would propose to authorise Peter Le Cheminant to write to the Secretary General of the CCSU in the terms of the attached draft.

....

I am copying this letter to the Private Secretaries of Ministers on MISC 66 and to Sir Robert Armstrong.

*Yours ever,
Peter*

P.S. JENKINS
Private Secretary

DRAFT LETTER

To: W L Kendall Esq.

Thank you for your letter of 22 February.

I am sorry that you see no value in a further meeting. As you know I made it clear on 16 February that our offer was not on a "take it or leave it" basis; that we saw room for genuine negotiation within the framework of the position then reached.

However we understand the decision you have taken and, as agreed last year, will now move jointly with you to make the necessary arrangements, within the terms of the Civil Service Arbitration Agreement, to bring the issues before the Civil Service Arbitration Tribunal at an early date.



24/5V
NBPM
ms 26/2

Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

26 February 1982

J Buckley Esq.
Private Secretary to
Chancellor of the Duchy of Lancaster

Dear Jim,

MEGAW INQUIRY: STRUCTURE

Thank you for your letter of 24 February ^{with report of Regard} enclosing the draft of a letter for the Chancellor of the Duchy to send to Sir John Megaw.

It is unfortunate that we are not in a position to give the Megaw Inquiry a clearer view of our approach to questions of structure and the implications of this for the role which internal pay relativities might play in new pay arrangements. But the Chancellor accepts that in present circumstances we can do no more than point to some of the considerations which are involved.

We have two drafting amendments to suggest:-

- a) the meaning of the last line on the first page of the draft would perhaps be clearer if it read "and it can cause difficulties when jobs cannot readily be allocated to a particular grouping."
- b) to avoid an apparent value judgement on the utility of the Priestley system the first two sentences of paragraph 5 might be amended to read:-

".... which reflected outside pay rates for broadly comparable work. This involved the introduction of pay distinctions on market grounds between staff"

I am copying this letter to Michael Scholar (No 10), David Omand (Defence), David Clark (DHSS), Barbaby Shaw (Employment), Jim Nursaw (Attorney General), Cathrine Duncan (Lord Advocate) and to David Wright (Cabinet Office).

Yours ever
Peter

P.S. JENKINS
Private Secretary



12 FEB 1962



12 FEB 1962

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ANNEX A is Now ASSAULTED

Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

25 February 1982

J. Buckley, Esq.,
Private Secretary to the
Chancellor of the Duchy
of Lancaster

Dear Jim

MEGAW INQUIRY: JOB SECURITY

.....
The Megaw Committee has asked for a paper expanding on the paragraph on job security in the Government's Factual Background Memorandum to the Inquiry. I attach a draft of such a paper prepared in the Treasury. We are being pressed hard to get any remaining evidence for the Inquiry to them by Friday of this week. With apologies for the shortness of the notice, I should be grateful for clearance of the attached draft or for any amendments by lunchtime tomorrow.

I am copying this to the Private Secretaries to the Prime Minister and to the Secretaries of State for Defence, Employment, Environment, Health and Social Services and Home Affairs, and to Sir Robert Armstrong.

*Yours ever
Peter*

P.S. JENKINS
Private Secretary

Previous attempts at identifying relative job security

i. Pay Research

1. As part of the 1977 Civil Service Pay Agreement it was agreed that in future the Pay Research Unit should collect information about job security in the outside analogue organisations, so that this could be taken into account in the annual pay research negotiations. In the two surveys conducted after the Agreement came into force (1978-79 and 1979-80), the Unit asked the analogue organisations for a wide range of information, covering numbers of redundancies, dismissals other than redundancy, recruitment standards, methods of reviewing employee performance, and dismissal procedures.

2. There was a very low response rate. Between one-third and half of the organisations surveyed were unable to supply the information required, and this made it impossible to draw any but the most broad conclusions. An examination of the returns provided in the Clerical and Administration Group (Middle and Higher) surveys indicated that the majority of the organisations who were able to supply the information had low rates of job loss. In general, returns were confined to what was described as "redundancy". About half reported no redundancies at all, and many reported no more than one or two per thousand staff. Some very high rates were reported (up to ninety-five per thousand), concentrated in relatively few firms. Because of the poor quality of this information the official and union sides were unable to reach agreement on how the information should be interpreted or applied in the negotiations, although both sides took it into account in considering the adjustments to be made for "unquantifiables", including job security, in the final stages of the negotiations.

ii. The Clegg Commission

3. The Standing Commission on Pay Comparability[†] indicated in its General Report that it had "so far been unable to find any useful measures of security or indeed any evidence that, apart from a few notably risky occupations, there was a relationship between security and pay".

PHOTOCOPY

The first page of Annex on final print

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† Standing Commission on Pay Comparability, Report No 9 General Report;
Paragraphs 87-88

iii. **The Scott Inquiry**

4. The Scott Inquiry into the Value of Pensions* was asked to consider how to assess the relative job security enjoyed by employees in the private and public sectors. The Inquiry was unable to come forward with any evaluation. It commented that the evidence it had received on the topic was largely subjective, although it had noted that recent reductions in the size of most public services had not matched the number of redundancies and widespread short-time working in such large parts of the private sector as manufacturing industry and in some of the nationalised industries. The Inquiry pointed out that one difficulty would be getting appropriate data to make a proper comparison of job security and ensuring that the comparison was of like with like. This meant looking at the analogues used rather than the generality of outside employments.

*Inquiry into the Value of Pensions, February 1981, Cmnd 8147

PROOF COPY

Standard Industrial Classification	1980			1981		
	Redundancy payments	Employees in Employment (March)	Rate per 1,000	Redundancy Payments	Employees in Employment (September)	Rate per 1000
Professional & Scientific Services	6,236	3,634,000	1.7	10,499	3,586,400	2.9
Public Administration & Defence	7,046	1,538,000	4.6	20,926	1,526,100	13.7
Insurance, Banking, Finance and Business Services	6,386	1,234,000	5	10,082	1,212,900	8.3
Gas, Electricity & Water	2,355	337,000	7	6,324	331,100	19
Miscellaneous Services	20,873	2,346,000	9	36,262	2,357,000	15
Mining and Quarrying	3,350	344,000	10	11,180	330,600	33
Transport & Communication	17,342	1,473,000	12	37,266	1,419,600	26
Agriculture, Forestry & Fishing	4,670	349,000	13	7,197	351,500	20
Distributive Trades	38,412	2,741,000	14	61,795	2,583,200	23
Coal & Petroleum Products	834	39,000	21	2,418	36,900	67
Food, Drink & Tobacco	16,170	659,000	25	30,884	612,700	50
Paper, Printing & Publishing	15,653	531,000	29	28,723	487,900	58
Chemicals & Allied Industries	14,862	435,000	34	28,128	393,000	71
Construction	45,108	1,225,000	37	74,426	1,105,100	67
Timber, Furniture etc	9,611	244,000	39	14,833	223,400	66
Electrical Engineering	29,038	728,000	40	51,643	648,800	79
Metal Goods not elsewhere specified	21,905	517,000	42	44,776	426,200	105
Instrument Engineering	6,152	142,000	43	8,672	123,000	70
Vehicles	31,099	726,000	43	63,636	625,600	101
Bricks, Pottery, Glass Cement etc	12,263	248,000	49	18,379	211,600	87
Clothing & Footwear	18,715	347,000	54	24,979	298,800	83
Other Manufacturing Industries	16,355	298,000	54	21,778	258,200	84
Mechanical Engineering	50,469	874,000	58	80,699	742,300	108
Leather, Leather Goods & Fur	2,241	35,000	64	2,936	31,100	94
Shipbuilding & Marine Engineering	11,446	152,000	75	7,179	136,900	52
Textiles	35,730	412,000	87	31,590	343,400	92
Metal Manufacture	46,447	424,000	110	69,542	325,900	213
TOTAL	489,488	22,030,000	22	806,782	20,729,200	38

Notes

1 Redundancy payments made to employees in the civil service, National Health Service and the police are excluded from the tables, because these groups are not covered by the national redundancy payments scheme. Total staff numbers in these groups are, however, included in the columns showing "Employees in Employment".

2 Redundancies in the first two years of employment and under age 20 do not qualify for payments under the national redundancy payments scheme, and are therefore not included in these figures.

20 FEB 1982



MR. SCHOLAR ✓

Prime Minister

①

Agree to the submission of

c.c. Mr. Hoskyns

these 5 papers to Megaw, subject
only to the suggestion at X?

Yes not

Megaw Inquiry

MUS 26/2

Since there are no less than 5 pieces of draft evidence for the Megaw Inquiry now awaiting the Prime Minister's approval, you will no doubt be as happy as I am to know that the Inquiry has now set a deadline of the end of February for the receipt of evidence; this flow of drafts is therefore reaching its peak and should shortly dry up altogether.

I offer the following comments on the current batch:-

(i) Merit pay. The Prime Minister will recall that other Ministers, no doubt heavily briefed by their senior officials, showed a distinct lack of enthusiasm for the rather forthcoming line in the original draft proposed by the Chancellor. The Chancellor has now bowed to their pressure, and the latest draft is considerably more cautious. But paragraph 18, which summarised the concern of others, is fair; and the conclusion (paragraph 29) is well balanced. I think that the Prime Minister should accept this draft, not least because at an earlier stage we indicated that she would be content for the Chancellor to sort this out; but she may want to glance at the rather good comments by Derek Rayner, which tend to place less weight on the objections to the earlier version.

you have
already seen

(ii) Reductions in manpower. This is an entirely factual paper explaining how the reductions in manpower are being achieved. The only problem with it is that it does not sit well with the paper on productivity pay (see below) because it provides the unions with rather strong evidence of increased productivity - the description in paragraph 5 of the way in which the reductions have been achieved makes it clear that to a considerable extent the same task is being done by fewer people.

/ (iii)

(iii) Productivity Pay. I am sure this paper takes the right line on substance, which is that productivity pay of non-industrial civil servants is unknown, and would be extremely difficult to introduce; my only point is the link with the manpower reductions, and the best way of taking care of that might be to include a paragraph making it clear that the long-term process of getting civil service numbers down [was entirely different in nature from the immediate productivity objectives.

is related to the aim of reducing government and is
MCS

X

(iv) Pay Structure. The only point arising from the draft paper from the Chancellor of the Duchy of Lancaster is the potential conflict between pay relativities and market rates (paragraph 6). I am sure the paper is right simply to invite the Committee's views on the broad approach.

(v) Job Security. This draft takes us no further forward on a well-worn subject. But I have no suggestions for improving it.

25 February, 1982.



2/25/82

f. 34.

Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

25 February 1982

J. Buckley, Esq.,
Private Secretary to the
Chancellor of the Duchy
of Lancaster

Dear Jim

MEGAW INQUIRY: JOB SECURITY

.....
The Megaw Committee has asked for a paper expanding on the paragraph on job security in the Government's Factual Background Memorandum to the Inquiry. I attach a draft of such a paper prepared in the Treasury. We are being pressed hard to get any remaining evidence for the Inquiry to them by Friday of this week. With apologies for the shortness of the notice, I should be grateful for clearance of the attached draft or for any amendments by lunchtime tomorrow.

I am copying this to the Private Secretaries to the Prime Minister and to the Secretaries of State for Defence, Employment, Environment, Health and Social Services and Home Affairs, and to Sir Robert Armstrong.

*Yours ever
Peter*

P.S. JENKINS
Private Secretary

DRAFT

JOB SECURITY IN THE NON-INDUSTRIAL CIVIL SERVICE

INTRODUCTION

Future civil service pay arrangements must deal convincingly with relative job security, which, at a time of high unemployment, has assumed greater importance as a factor influencing employment choice than when the Priestley Commission reported. Employment in the public services generally, and in the non-industrial civil service in particular, is widely perceived as secure.

2 The Factual Background Memorandum sent to the Inquiry by the then Civil Service Department in September 1981 included in the following paragraph on job security:-

"3.22 Attempts have been made in the past to obtain an indication of the relative job security of civil servants by comparing the numbers of involuntary leavers from the civil service and those from other organisations. This has proved difficult partly because of the lack of comprehensive statistics outside the civil service and partly because of difficulties in comparing different practices and procedures. General indications are, however, that at the present time of high unemployment and redundancy job security in the civil service is higher than in the economy as a whole, but little different from that of people doing comparable, white collar work".

3 In a letter dated 28 September the Secretary to the Inquiry asked for a much fuller note, and we also understand that the inquiry will be commissioning its own research on the evaluation of comparative job security.

Past attempts to evaluate job security

4 In recent years two main attempts have been made to identify or value the comparative security of employment enjoyed by civil servants: in the pay research process, and by the Committee of Inquiry into the value of Pensions in 1981. The Standing Commission on Pay Comparability also considered the question for public servants more generally in 1980. The findings in each case are summarised at Annex A.

NATIONAL STATISTICS

5. Attempts have also been made to obtain an indication of the relative job security of non-industrial civil servants from available national statistics. It is not possible to identify, from the unemployment register, those who left their last employment voluntarily or otherwise. Figures for involuntary job loss as a whole cannot therefore be established. Of specific forms of job loss, none of the redundancy statistics collected by the Department of Employment are sufficiently detailed or comprehensive to enable a reliable comparison to be made of redundancies between employees in the public and private sectors. As an illustration, perhaps the most reliable relevant national statistics are those for the receipt of payments under the statutory redundancy payments scheme. Annex B shows the rates for each Industrial Order in 1980 and 1981. It should be noted, however that these figures understate total redundancies (see footnotes to Annex B). It is not possible to quantify this exactly, but it could be by as much as a half, the main factors being that employees in their first 2 years of employment and those under 20 are not included.

6. The latest figures available when the Factual Background Memorandum was prepared for the Inquiry were those for 1980. These showed clearly that redundancies in the non-industrial civil service were far lower than in employment generally. In 1980 the proportion of non-industrial civil servants who left in the civil service's technical category of redundancy was 0.4 per 1,000. But "redundancy" is narrowly defined in the civil service, and for comparative purposes it is probably appropriate to include civil servants who left under pre-redundancy schemes and those men who, because of manpower reductions, were compulsorily retired between 60 and 65. On this basis the proportion was of the order of 3 to 6 per thousand.

7. The statutory redundancy payment figures for 1981 are now available. They show a marked increase over those for 1980 in all Orders. For example in the Public Administration and Defence Order, the increase was from 5.6 to 13.7 per thousand. Final figures for redundancies and other involuntary retirements in the non-industrial civil service in 1981 are not yet available. Provisional estimates, however indicate that "technical" redundancies have risen from 0.4 to 1.4 per 1,000 but that the more broadly-based figure, including retirements under pre-redundancy

measures and those retired involuntarily before age 65, remains in the range of about 3 to 6 per 1,000. In 1981, therefore, redundancies in the non-industrial civil service were generally lower than those in any category of outside employment on the broader estimate of comparable redundancies, as well as in the more restricted category technically termed "redundancy".

General comment

§ How the relative security of civil service employment is taken into account depends on the form of pay determination in use. If the employer is guided in setting pay levels extensively by his experience in recruiting and retaining staff, the attraction of relative job security is one factor influencing recruitment and retention and may not need to be separately evaluated. But evaluation is necessary when the process of pay determination tries to derive pay levels arithmetically from known facts about other fields of employment. The pay research system was such a system and one of its main weaknesses was that it rested too much on those factors which could readily be measured and too little on those which could not. Public confidence requires that any pay system which includes external comparisons as one element gives adequate weight to relative job security. The Government welcomes the fact that the Inquiry are seeking independent help on this difficult subject and is ready to assist the Inquiry or its advisers in any way it can.

HM Treasury
February 1982

2 FEB 1982





Prime Minister

CC. J.V.

Some very interesting (2)

Comments here.

MUS 25/2

CABINET OFFICE

70 Whitehall, London SW1A 2AS Telephone 01- 233 8224

February 1982

The Rt Hon Sir Geoffrey Howe QC MP
Chancellor of the Exchequer

INQUIRY INTO CIVIL SERVICE PAY: GOVERNMENT EVIDENCE ON MERIT PAY

Thank you for sending me a copy of your letter to Janet Young of 2 February and of the paper enclosed with it. I have seen replies from some of your colleagues. My own observations are set out in the enclosed note, which I hope that you will find helpful.

Pt. 9

2. The only points I want to emphasise here are these:

(1) Merit pay is not easy to introduce or run, whether in the private sector or elsewhere. It exerts an extra discipline on managers although many of them show by their habits that they would like to avoid even the relatively easier duty associated with staff reporting not connected with merit pay. And some fair points have been made by Ministers about some of the difficulties in the Civil Service.

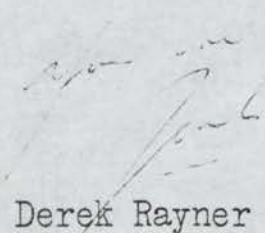
(2) On the other hand, the Civil Service is in theory well set up to make a go of merit pay linked with staff assessment. A report made last year on the joint personnel management and establishments work of two linked departments observes:

"The resources committed to formal reporting [in the Civil Service] are far more than in the private sector firms we visited The contrast between private sector practice and that in the Departments is an essential consequence of the Civil Service pursuit of absolute equality of treatment across all employees and of the mobility of staff between jobs and between reporting officers. Written assessments held centrally provide continuity and a basis for comparability."

- (3) That observation casts doubt on the arguments about the extra administrative cost of merit pay, which I do not think proven. More importantly, the evidence produced by that Departmental report and by Annex D of your paper suggests that one of the essential arguments for making no change - namely that the present arrangements work well (which some Ministers obviously doubt) - is not proven either. Reporting standards do not seem robust.
- (4) The existing arrangements carry a cost for the taxpayer in financial terms and in terms of his confidence in the institutions of Government. Given the enormous scale of Government expenditure, the cash costs are not large; a simple calculation based on the three grades of SEO, EO and CO in Annex B suggests, for example, that the cost of reaching the penultimate increments in their scales was of the order of £7m (using 1979 numbers of staff in post). But automaticity makes some part of that, and of the larger total for all incremental movements, a prodigal use of the taxpayer's money. More important is the cost in lost confidence. I think that the general taxpayer has a legitimate interest in the differential treatment of different performances by public servants: in today's world, they are seen as having privileges of employment and remuneration of which Civil Service management should be especially conscious.
- (5) It is especially important to acknowledge and reward the merit of those for whom promotion in post is not an option.

3. I should be interested to know what progress has been made with accelerated promotion and early retirement policies, to which the Cabinet inclined when it last discussed merit pay.

4. I am copying this to the Prime Minister, your Cabinet colleagues and the Joint Heads of the Civil Service.


Derek Rayner

Enc: As indicated

INQUIRY INTO CIVIL SERVICE PAY: GOVERNMENT EVIDENCE ON MERIT PAY

Notes by Sir Derek Rayner

The case for a paper

1. You say in para. 1 of the draft paper that the Government has asked the Megaw Committee to consider the possibility of introducing merit pay. The Committee is therefore entitled to look to the Government for at least a statement of the issues as it sees them and preferably also for a statement of its views on both the principles and practices involved.

2. The draft seems to me as an outsider an entirely reasonable statement of the issues and one well adjusted to its purpose in that it does not bind Ministers hand and foot to a particular position. The conclusions in paras. 26 and 27 - seeking the Committee's views on the principle and their practical expression (26) and summarising the Government's thinking in principle (27) - seem to be modestly and clearly stated.

The issues

3. The draft invites Ministers to commit themselves to a really quite moderate statement of the issues as follows:
 - (1) There are strong arguments for moving away from the present framework of fixed incremental scales or flat rates towards a system in which an individual's pay has a more direct relationship to the quality of his performance (para. 2); the main question is whether advancement through a pay scale or range should in future be linked more directly to individual performance (paras. 7 and 17); and this is a question which applies to all grades other than those of Permanent and Deputy Secretary (para. 23).

4. In my view, there are indeed strong arguments, which are fairly summarised in para. 13. Apart from those there stated, I would attach importance to these:

- a. The question of equity goes wider than staff themselves. Important as that argument is (para. 13b), the real issue is whether it is right to expect the taxpayer to finance the good, bad and indifferent equally. I do not believe that it is. The taxpayer has no resort but to the good faith of Civil Service management. If Civil Service managers do not have to exercise a judgment and if the good, bad and indifferent are rewarded equally, his interest is betrayed.

- b. Evidence about the present quality of reporting standards, and the relationship between those and the pay system, is not re-assuring. The data given in Annex D show a pretty wide variation between departments in their assessments in the middle and upper reaches of performance, but the majority of staff appear to be "very good" or "outstanding". Only 1 Officer in 100 is "not quite adequate" or "unsatisfactory". I do not find this altogether credible. The distribution in Annex D may be compared with what I find to be a much more common experience outside:

<u>Box No.</u>	<u>Civil Service (Annex D)(%)</u>	<u>Other experience (%)</u>
1. Outstanding)	40 - 75	1. 5
2. Very good)		
3. Good	20 - 50	3. 60
4. Fair	5 - 10	4. 15
5. Not quite adequate)	1	5.) 5
6. Unsatisfactory)		
		6.)

- c. The Annex D evidence seems to be all of a piece with the finding in a study of personnel work in the Departments of Industry and Trade last year that some 90% of their Executive staff were considered to show "above average" performances, in the sense of receiving a Box 3 marking or above and that, of 3445 officers in the grades EO - Principal, only 29 (0.8%) had Box 5 or 6 markings in 1980-81. In the case of the Principals, the authors remark that the paucity of low markings did not accord with the impression given to the personnel management staff by the line managers concerned.
- d. Automaticity is dangerously comfortable in any organisation, but it can be especially pernicious in a public sector organisation which is protected from going bust and which can stray into an unconscious self-indulgence. The privilege of the public service in this respect is substantial. The fact that Ministers are served by staff whose instincts are honourable and diligent should not be allowed to obscure the resentment it causes among those who finance it and whose own employment and prospects may be nothing like so secure.
- e. The "promotion" argument is well stated in para. 13(c), but could, I think, go further. The telling statistics in Annex B might be brought into the text in support of the point that about half of the non-industrial staff have reached their maximum or are on fixed salary points (ie 72% of SEOs, 52% of EOs and 38% of COs). Also, I do not agree with the argument that promotion should be the classic form of reward in the Civil Service (para. 3). In my experience, this can have the very undesirable effect of removing an officer from

command over a field in which he or she is expert. This is a wasteful practice. Better by far to reward such people in post and capitalise on their knowledge, experience and enthusiasm.

(2) For the bulk of the non-industrial Civil Service it would be appropriate to keep pay scales or ranges rather than adopting flat rates (para. 7).

5. This seems incontrovertible to me, provided that pay scales and ranges are used by management with self-discipline and fairness to staff.

(3) Problems involved in the use of merit pay arrangements in the Civil Service could be overcome in practice and with experience (paras. 14 and 15; para. 25 also relevant)

6. This also seems a wholly sensible proposition. It would be idle to pretend that there would not be problems or that the present is a favourable time for such a profound change in working practices by management and in the expectations of staff or that some years would not be needed to bring the change about. But other employers' experience (my own included) shows that merit pay is feasible.

7. I would not make too much of other employers' experiences or argue that what a company like my own does can be exactly reproduced in the Civil Service. At the same time, the draft paper is absolutely right to argue that - even if the same "success" measures do not exist in Whitehall as outside - the Civil Service already puts a lot of effort into staff assessment and that a merit pay system could be linked to it (para. 14(a)).

8. The point about "extra staff" (para. 14(d)) is not argued or quantified, nor is it shown that fairness and the avoidance of automaticity would consume "additional management time". Surely the real point is that a substantial staff and management effort is already being put into assessment and is producing less credible

and usable results than it should (para. 5 above)?

(4) The main options appear to be range pay, flexible use of incremental scales and bonuses (para. 18 - 22).

9. I agree.

(5) It is important for Ministers to keep out of decisions about the pay of individual career civil servants and the grades of Permanent and Deputy Secretaries might need to be excluded from any merit pay scheme (para. 23).

10. The first of those propositions seems to be self-evident. The number of officials who pass regularly enough under their Minister's eye for him/her to exercise a judgment is limited and this obviously introduces an important argument of equity insofar as rewards are concerned. Insofar as penalties go, it is - equally obviously - necessary that officials should feel free to advise their Minister on the merits of each issue and free from any threat that unpalatable advice may carry a personal cost. But the proposition should not be pressed so far as to deny that Ministers have any part in pay decisions, because it would fly in the face of

(1) what must be a reasonable presumption, namely that such decisions cannot be for the Permanent Secretary to preside over absolutely on his own - there would surely be some cases where the official head of the Department would be well advised to take the mind of its political head; and

(2) what is already the fact, namely that Ministers are involved in the rewards business through their part in the submission of names for honours.

11. I have no difficulty about excluding Permanent Secretaries.
But I add these riders:

- (1) It is not self-evidently right that Deputy Secretaries should be excluded. There is no law of nature which makes them universally excellent and in my experience they are not. Some are outstanding by any criterion, but the grade is risk-prone because of age and other factors. And it is not wise in my judgment to enshrine in the Permanent Secretaries' rule book the working assumption that they are all the same.
- (2) Perhaps a more important consideration is the fact - emphasised by the Wardale 'chain of command' review - that posts at this level can be very different in weight, complexity and responsibility. The Government has recently brought an outsider to fill a "managing" Second Permanent Secretary at a salary of £50,000, an interesting commentary on the perceived "going rate" for a comparable post outside and on the fact that a full Permanent Secretary post in most departments attracts a salary of £33,000. If the "one off" assessment of the PSA Chief Executive post is £50,000, the market rate for certain other jobs in charge of (say) very complex policy and/or operational functions must be considerably more. I think it follows from the general argument on merit that it is far from right that all posts in each of the three top grades of the Service should carry the same evoluments and that, indeed, some should be more highly paid than others.

Derek Rayner
February 1982



wait for JV

2/2/82

CC JV

Management and Personnel Office
Whitehall London SW1A 2AZ
Telephone 01-273 14400
GTN 273 14400

Chancellor of the Duchy of Lancaster

24 February 1982

From the Private Secretary

Peter Jenkins
Private Secretary to the
Chancellor of the Exchequer
HM Treasury
Parliament Street
LONDON SW1P 3AG

Dear Peter,

MEGAW INQUIRY

When it was decided that the Chancellor of the Duchy need not accompany Sir Geoffrey and Mr Hayhoe to the meeting with the Megaw Committee, it was agreed that she should write to the Committee about matters in which the Committee had expressed an interest and which touched on the responsibilities of the MPO.

The main topic is the pay structure. This is an area where there is no need for the Government to press a particular point of view. Indeed, it seems best simply to point to the major considerations that arise, and to make it clear that the Government has still to reach a view on the wider problems of structure.

... I attach a draft of the letter which the Chancellor of the Duchy has it in mind to send. She would be glad to know whether Sir Geoffrey is content.

I am sending copies to Michael Scholar (No.10), David Omand (Defence), David Clark (DHSS), Barnaby Shaw (Employment), Jim Nursaw (Attorney General), Cathrine Duncan (Lord Advocate) and to David Wright (Cabinet Office).

Yours sincerely,
Jim Buckley.

J BUCKLEY

DRAFT LETTER FOR THE CHANCELLOR OF THE DUCHY TO SEND TO:

SIR JOHN MEGAW

Our Secretaries agreed that I should write to you about the matters mentioned in Mr Laughrin's letter of 10 November which touch on the responsibilities of the Management and Personnel Office. The main topic for me in that letter is pay structure. The Committee has indicated that it would be interested to know if the Government is planning any further moves towards a more unified structure in the Civil Service or a reduction of the number of grades, categories and groups. Mr Laughrin's letter also seeks to establish how far the Government expects the Committee to give a view on these points.

2. The Fulton Committee recommended a unified grading structure with a common pay range at each grade level. Since then, unified grading has been introduced down to Under Secretary level. At lower levels, there is the system of categories and occupational groups described on pages 5 and 6 of our Factual Background Memorandum. Staff join a particular occupational grouping when they are recruited, and their jobs, careers, salaries etc will depend on which grouping they belong to. Only at Under Secretary level and above do all staff (with very few exceptions) share the same pay and grading system right across the Service, whatever their previous occupational grouping.

3. The call to extend unified grading was reiterated in the Eleventh Report from the Expenditure Committee (Session 1976/77) and in the Report of the Treasury and Civil Service Committee on the future of the Civil Service Department (1980). In the White Paper on The Future of the Civil Service Department (Cmnd 8170) the Government said that it would look again at the structure of Civil Service grades to establish the objectives that it should meet and see what changes may be needed. This examination is proceeding but the Government would not want to come to a conclusion on structure before seeing the Committee's recommendations on pay.

4. The close link in the Civil Service between pay and structure is discussed on page 33 of the Factual Background Memorandum. The present arrangement of occupational groupings, within which careers are managed, works well enough in most areas. But it does inhibit movement of people from one type of work to another, and it causes problems when work spreads across occupational boundaries.

A basic question is whether we should give greater priority to occupational mobility and reduce the distinctions between staff from different disciplines and occupations.

5. In pay terms, the primary consideration since Priestley has been to produce a pay structure which reflected outside pay rates for broadly comparable work and enabled sufficient staff to be recruited and retained. Pay distinctions have been introduced on market grounds between staff of different disciplines or occupations, even though they might be at similar levels in terms of job weight or organisational hierarchy. Further refinements in pay distinctions between different groups of staff would make it easier to respond to differences in the pay market and in recruitment and retention of particular skills and disciplines.

6. By contrast, a reduction in such pay distinctions would make it easier to have fewer separate occupational grades; and the fewer occupational distinctions there are, the more flexibility is management likely to have in organising work and deploying staff. From that point of view, it may be desirable to pay less attention to market rates for a particular group of staff and more to internal pay relativities.

7. In short, a balance has to be struck somewhere between internal management needs on the one hand and the reflection of pay fluctuations in the outside market on the other hand. And since circumstances change, in relation to both pay and other management requirements, the structure may require adjustment from time to time.

8. The Government does not expect the Inquiry to make any detailed study of the specific groupings of staff within the pay structure. This would be a formidable task. But it would welcome any views which the Committee wishes to offer on the broad approach to pay structure and on the relevance of internal relativities in fixing pay rates for different groups of staff, including the use of internal pay links between different grades.



22 FEB 1982





NBPM

MCS 24/2

Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

24 February 1982

The Baroness Young,
Chancellor of the Duchy
of Lancaster

Dear Chancellor,

INQUIRY INTO CIVIL SERVICE PAY: GOVERNMENT EVIDENCE ON MERIT PAY

Thank you for your letter of 12 February commenting on the draft paper on merit pay for the Megaw Inquiry which I circulated to colleagues with my letter to you of 2 February.

..... It is clear that there is a general preference for our submitting a more neutral paper than I had proposed. Following your letter our officials have been in touch and have produced the revised draft of the paper which I enclose with this letter. This takes account of the various comments which colleagues have made although these have in some cases pointed in conflicting directions. I hope that the changes which have been made to it will now clear the way for its early submission to the Inquiry. If you or colleagues have any further suggestions to offer on the revised draft I should be grateful to hear of them by close of play on Thursday, 25 February.

I am copying this letter and the revised paper to the Prime Minister, to all members of the Cabinet, Sir Robert Armstrong and Sir Derek Rayner.

Yours sincerely

Peter Jenkins

for GEOFFREY HOWE

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

MERIT PAY AND INCREMENTAL SCALES

Introduction

In its initial evidence on future pay arrangements for the non-industrial Civil Service the Government has asked the Committee of Inquiry to consider whether there is a place for using merit pay in the Civil Service and if so how it should be applied.

2. There are in principle considerable attractions in the idea of moving away from the present framework of fixed incremental scales or flat rates towards a system in which the pay of an individual bears a more direct relationship to the quality of his performance. But there are a number of difficulties which would need to be overcome in practice in devising and applying a suitable merit pay scheme to operate successfully in the circumstances of the Civil Service. This paper considers that case for a change in approach and the management requirements which would need to be met in devising a satisfactory scheme.

3. This paper is **not** concerned with the possibility of varying the pay of staff in the same grade to distinguish more finely between the rates of pay for different jobs according to their level of difficulty or responsibility. It is concerned only with approaches to merit pay arrangements designed to distinguish between different levels of personal performance in the same kind of work. It also considers more generally the way in which incremental scales are at present used within the Civil Service pay structure. Apart from their possible use as an instrument for rewarding merit the Committee has been invited to consider whether their use is justified and whether modifications are desirable.

The Present Position

4. At present the great majority of staff up to and including Assistant Secretary level are on incremental pay scales with virtually automatic progression. There are formal provisions for an increment to be withheld or withdrawn on grounds of discipline or inefficiency but these are rarely used. Staff at Under Secretary level and above are on flat rates. A detailed note on the use of incremental scales in the non-industrial Civil Service is at **Annex A.**

Scales or Flat Rates

5. The use of an incremental scale or pay range has advantages over a salary system confined to flat rates. Incremental scales reflect the fact that individuals take time to become fully proficient in all the work of their grade and make it possible to recognise increasing experience and provide some incentive for staff to stay in an organisation. The use of a scale or range also provides a degree of flexibility in setting starting pay on recruitment and promotion. Inexperienced or untrained staff can be recruited at a lower cost than the salaries which an organisation needs to pay to more experienced staff. Starting salaries can be set higher up the range or scale for people who are older or who have particular qualifications or experience.

6. General practice outside the Civil Service is to use pay ranges, or incremental scales, with staff eligible to move through the range or scale by annual steps. The use of flat rates for all the staff in a particular grade will make pay rates look more attractive to new recruits, but less attractive to those who are more concerned with the rates of pay they could earn after being with an organisation for a number of years. Flat rates are more often found for a limited number of grades at the bottom of the grading structure where the task of the grade can be very rapidly learned so that the individual is almost immediately fully effective in his job.

7. Three examples of Civil Service scales and of the equivalent flat rates calculated on a nil-cost basis are in **Annex B**.

8. The Government believes that for the bulk of the non-industrial Civil Service it would be appropriate to retain pay scales or ranges rather than adopting flat rates.

9. As has been explained, incremental progression up a pay scale has been regarded in the Civil Service simply as a means of recognising increasing experience and length of service in a grade. The main form of reward for merit in the Civil Service has been promotion to the next grade, as and when vacancies occur, and the prospect of promotion has been the main incentive for individuals to perform well in their current grade. In a few areas there are special arrangements (mainly in the scientific grades) for individual "merit" promotions based on job performance rather than existing vacancies, but there are no arrangements for varying an individual's pay in his current grade to reflect his performance.

10 The question with which the paper is primarily concerned is whether advancement through a pay scale or range should in future be linked more directly to individual performance. However, as the Government has said it would welcome the Committee's views more generally on the use made of incremental scales in the Civil Service pay system.

Previous Consideration of Merit Pay

11. The Priestley Royal Commission (1955) itself did not favour merit pay*, mainly on the grounds that it was difficult in the Civil Service to assess the contribution made by individuals to particular projects. But the Fulton Committee (1968) recommended a system of ranges or pay "bands" for the top grades, together with a more flexible use of increments at lower levels[†]. The Standing Advisory Committee on Higher Civil Service pay in its Ninth Report (1969) supported the introduction of pay ranges as a means of relating salary to performance. A comprehensive review of the structure of the Higher Civil Service was carried out by a joint team of civil servants and consultants following the Fulton Report[‡], and recommended against the introduction of merit pay. The Top Salaries Review Body (successor to the Standing Advisory Committee) considered these recommendations but nevertheless urged in both its Sixth (1974) and Tenth (1978) Reports that the case for merit pay ranges should be further examined[#].

* Report of the Priestley Royal Commission, paragraph 319.

† Fulton Report Volume I, paragraphs 218-219 and 226-229.

‡ Report on the Structure of the Higher Civil Service published by the Civil Service Department in July 1970; chapter X.

TSRB Sixth Report, 1974, paragraphs 42-44; TSRB Tenth Report, 1978, paragraphs 39-40.

12. The House of Commons Expenditure Committee (1977) recommended that research should be conducted into the possibilities of relating pay and promotion to performance at all levels, and that consideration should be given to provision for speeding up or withholding increments according to performance+.

13. Following the recommendations of the Expenditure Committee two reports were commissioned by the last Administration to examine outside practice in the use of merit pay:-

i. from the Office of Manpower Economics (OME) into pay systems for senior management;

ii. from the Civil Service Pay Research Unit (PRU) into performance related pay systems below the most senior levels.

Copies of both reports have been made available to the Committee. A note on outside practice is at Annex C.

14. The Committee will no doubt have available to it other sources of information on the present practice of organisations other than the Civil Service and will be able to form some assessment of their experience.

Recent Developments

15. As part of its review of the changes needed in the management of the Civil Service, which is being undertaken with the assistance of Sir Derek Rayner, the Government has been considering the general question of rewards and motivation. When the Government proposed discussion with the unions in 1980 on a number of longer term changes in the Civil Service pay system, it suggested that the introduction of merit pay should be considered. But no progress was made with the unions in discussions on these issues and merit pay is among the matters which the Government has asked the present Committee to consider.

+ Eleventh Report from the House of Commons Expenditure Committee, 1977, paragraphs 129-132.

16. The Government also attaches importance to the use of other management methods of improving motivation, recognising good performance and penalising inadequate performance. Good management itself, and the mere fact of recognition by management of good work are both important and are being encouraged. Work is in hand to tighten up reporting and appraisal standards so that officers will be left in no doubt when their work is less than satisfactory. Tightening up reporting standards will make it easier to expand the use which is made of downgrading and the present rules for withholding increments and the arrangements for accelerated promotion on the one hand, and premature retirement on the other. The requirements to be met during a trial period after promotion are also being stiffened.

The Case for Merit Pay

17. The question is whether it would be desirable as an incentive to better performance to introduce arrangements under which the pay of an individual was directly related to his performance. The general arguments in favour of adopting merit pay in the Civil Service are as follows:-

a. It would be desirable to have a more effective means of rewarding good performance and penalising poor performance than promotion on the one hand and downgrading and dismissal on the other. For most staff the relevance of these measures is long-term if at all. Staff who are hard working and valuable to their Departments will not always have the right qualities for promotion. There is a need for ways of acknowledging their contribution and maintaining their motivation and morale;

b. It is inequitable to reward competent and hard-working staff equally in financial terms with those who are less capable and hard-working; and a financial reward for good performance would make the Service more attractive to more able staff;

c. As the size of the Civil Service is reduced there will be proportionately fewer promotions. There will therefore be a greater need for other incentives especially for those staff (at present about half but prospectively a greater proportion) who have reached the maximum of their scale or are on fixed salary points. Merit payments could help to maintain their motivation and morale;

d. Outside organisations have successfully introduced merit pay schemes and where possible Civil Service terms and conditions of service should be reasonably consistent with outside practice. Both the pressures and the incentives which apply to private sector employees should apply as far as possible to Civil servants too.

18. There are, however, a number of problems which would need to be overcome if a successful merit pay scheme was to be launched in the non-industrial Civil Service:

a. The nature of public service work creates a particular need for co-operation and shared objectives. For the most part it does not lend itself to the clear measurement of individual performance nor can performance be judged by quantitative criteria such as a profit and loss account or sales figures. In the private sector it can be easier to establish a clear link between merit pay and contribution to profit as a basis for a more objective assessment;

b. Judgments can, and are, made of the performance of staff in the Civil Service but they are necessarily more subjective than those which can be made in many other organisations. In a very large organisation working in a public service environment it is difficult to ensure complete consistency of standards both between departments and between individual managers within departments particularly where posts are widely spread across the country (and in some cases located abroad).

c. The opportunities for demonstrating merit vary from job to job and there could be reluctance to accept moves to less "eye-catching" but nonetheless essential jobs. Even with improvements in the reporting system reports could in most cases only be based on subjective judgments and the individual experience of reporting officers and to base the pay rates of their subordinates on these could cause dissension. It would almost certainly be necessary to introduce centralised machinery for assessment purposes, probably with a system of review for disputed cases - particularly if the scheme was unpopular with staff. There could, therefore, be significant additional administrative costs with extra staff required in personnel areas and more time required in line management for dealing with staff assessment issues. This would be necessary to ensure that a performance

based scheme was being applied fairly and that there was tight control over pay costs. There would be a particular need to monitor merit pay recommendations in the final years of service given their lasting effect on the superannuation bill. More generally there would be a need to guard against degeneration into an "automatic" system (as appears to have happened with some schemes in outside organisations);

d. There is inevitably a potential conflict between the attempt to secure improved motivation through merit pay and the desire that the scheme should not add to pay costs. If merit awards were to be available in sufficient size for enough people to produce results in terms of improved motivation among them there would, on a "nil cost" basis, be a significant reduction in the pay of others. The consequences of this for recruitment retention and morale generally would have to be carefully watched.

e. Against this background, there is a danger that a merit pay scheme would not in practice lead to sufficient improvement in the performance of those who are highly rated (and are probably already more highly motivated) to offset the degree of benefit from it.

19. In considering whether to proceed with a merit pay scheme it would be necessary to consider how far these problems could be overcome in order to secure the advantages which it could have in promoting the more effective management and motivation of staff. Some of the difficulties which have been described apply in the private sector as well as the public service but appear to have been overcome in practice as experience of a merit pay arrangement is gained by management and staff. The Committee may also wish to examine experience of operating merit pay schemes in other Civil Services abroad.

20. The present paper now turns to consideration of the kind of merit pay schemes which might be considered for use in the Civil Service.

Possible Merit Pay Systems

21. The reports by the OME and the PRU show that there is a considerable variety in terms of approach and of detail in the merit pay schemes in operation outside the Civil Service. But in broad terms the main options for use in the Civil Service would appear to be:-

- a. payment within a **range** with the individual's pay point within the range dependent on performance;
- b. more flexible use of **incremental scales** with provision to withhold and withdraw increments and possibly to accelerate incremental progression;
- c. **bonuses** payable for a year at a time, or as a lump sum. Bonuses could also be used to supplement range pay or incremental scale systems.

a. **Range Pay**

22. A pay range could either have fixed points only at the minimum and maximum with freedom to pay individuals at any point between them; or there could be fixed intervening points as well. In either case the appropriate span of the pay range for each grade would be fixed each year and would take account of any agreed general level of pay increase. The actual pay point of individual members of the grade would vary within the range on the basis of annual reviews of performance. Under some systems of range pay separately identified increases are awarded in terms of a general pay increase and of a merit pay increase; in others a combined and undifferentiated increase is awarded. There would be little difficulty in adapting existing incremental scales to pay ranges. There would be a transitional problem in the introduction of pay ranges in place of the present flat rates for Open Structure grades (particularly given the present degree of compression of salaries in the senior grades). In theory the pay levels of individuals could be reduced if their performance was poor but in practice this would more probably take the form of a reduction in relative pay (except in disciplinary cases). A range pay system, particularly if it did not use fixed intervening points between the minimum and maximum, would offer more flexibility than an incremental system. The main difference would be that there would be no expectation of advancement along the pay range. This would be entirely dependent on performance.

b. **Flexible Use of Increments**

23. An alternative approach, particularly for those grades where incremental scales are already in operation, would be to adapt the way in which these scales are applied by introducing a greater discretionary element into the award of increments:-

i. **More frequent withholding or withdrawing increments**

It would be possible to introduce separate arrangements to consider whether an individual should receive the next increment on his scale. Or alternatively the arrangements for incremental progression could be linked to the annual staff reporting system. The present position on this is described at Annex D. In future a Box 3 marking in the annual staff report ("good") could be made the minimum condition for incremental **progression** and a Box 4 ("fair") the minimum for **retention** of existing increments. This would mean unhindered progression along an incremental scale only for fully satisfactory staff. (Between 5 per cent and 10 per cent of staff receive markings below box 3 at present though there are departmental differences.) There would perhaps need to be provision for the review of decisions reached in individual cases by lower management where these were contested.

ii. **"Accelerated" increments**

There could also be provision for staff receiving very high performance markings, or a series of these, to receive more than one increment within their scales. But the scope for "double increments" on the basis of existing scales is now limited as a result of the trend to shorter incremental scales both inside and outside the Civil Service. In conjunction with a merit pay scheme based on the more flexible use of increments it might be desirable to consider moving to longer scales with more incremental steps in order to provide sufficient room for more differential treatment of staff of different quality;

iii. **"Additional" increments**

Partly because 50 per cent of staff on incremental scales are already on their maximum special treatment would be needed for staff, who though of good quality, are not suitable for promotion or for whom

there are no vacancies in the next grade. One possibility would be the introduction of an "additional" increment for staff of good quality after they had been at the maximum of their pay scale for a specified number of years. An alternative approach would be the award of bonuses.

24. A merit pay scheme based on incremental scales might therefore combine more flexible provision than at present for withholding or withdrawing increments with the possibility of "double increments" for exceptionally good performance and (perhaps) additional increments for staff who had reached their maximum.

c. **Bonuses**

25. Bonuses, payable either as lump sums or for one year only as an addition to monthly or weekly pay, would be an alternative form of financial incentive. They could be introduced alone in combination with the present flat rates and incremental scales; or as a supplement to range pay or the flexible use of incremental scales (including for example, payments to staff who had reached the maximum of their scale). Bonus payments would provide a clear recognition of meritorious performance or special effort; and they would have the advantage of flexibility since (unlike accelerated or additional increments) they would be only a temporary addition to pay. But they may be more appropriate as a supplement to a more general linking of pay rates to performance.

Different Systems at Different Levels?

26. Broadly, range pay is the type of merit pay which both the Fulton Committee and the TSRB recommended for senior grades of the Civil Service. It is the most common form of pay system for senior managers outside and is used by some large public sector organisations. To extend incremental scales into the Open Structure (as the basis for withholding or speeding up progress along a scale) would not provide as much flexibility and might lead to a greater "expectation" of advancement along the scale. Range pay might therefore be more appropriate for a merit scheme covering a relatively small number of senior staff, perhaps at Under Secretary and Assistant Secretary level. There would be difficulties in any case in introducing merit pay for the most senior grades of Permanent Secretary and Deputy Secretary. The Government considers it important to avoid involvement of Ministers in

decisions about the pay of individual career civil servants and these two grades might therefore need to be excluded from any scheme.

27. At the lower grading levels much larger numbers of staff are involved and it might be administratively preferable to retain the use of incremental scales while introducing a greater degree of discretion so that there is some additional financial reward for staff who perform particularly well and financial penalties for those whose performance fall below the required standard.

General Considerations

28. Naturally the details of any merit pay system for the Civil Service would need to be worked out and refined in the light of experience. There are a number of general considerations which would have to be borne in mind:-

a. Legal Constraints

Merit pay arrangements could be introduced at once as part of their conditions of service for new recruits or for staff promoted to a new grade. But if a scheme could be held to involve any worsening in the existing terms and conditions of service of staff at present in the Civil Service this could present legal problems. Existing staff might have to be offered the alternative of retaining their present pay and conditions (eg their existing incremental rules and scales) as an alternative to accepting the new scheme. But since a refusal to accept the new scheme would be treated as rendering staff ineligible for any subsequent annual increases in pay (as opposed to incremental increases on their existing scale) there would be an obvious incentive for staff to accept the new arrangements at the outset.

b. Costs

An important factor in considering any merit pay arrangements would be their cost. The aim would be to meet the cost of "merit" payments from within a fixed total pay bill (however that was determined under a new pay system). There could be two possible approaches:-

- i. to aim at a rough balance between extra cost of payments above an "average" level and savings from payments below that level;

- ii. to set general pay rates at a level which took account of the estimated additional cost of merit pay supplements.

As was pointed out in paragraph 18c there is inevitably a conflict between a desire to maximise the motivating effect of a merit pay scheme and a requirement for it not to add to the total pay bill. To be effective merit payments must be sufficiently substantial and available to a significant number of staff. The method of financial control to be adopted in operating a scheme would depend partly on its nature and partly on the extent to which Departments were given discretion in the operation of merit pay arrangements. A department could be given authority to vary payments to its staff within an overall pay bill figure. But if a scheme covered only the more senior grades there might need to be some arrangement for re-distributing the cost of merit payments between Departments to take account of the small number of senior staff in some Departments and departmental variations in overall quality.

c. Confidentiality

There is in general no restriction on the publication of information at present about Civil Service salaries. If a merit pay scheme were introduced with more flexibility in determining individual salary levels, it would be necessary to consider what, if any, degree of confidentiality would be needed. Information could be made available freely on the spans of the incremental scales or pay ranges or on the size of bonuses available and on variations in the size of the overall pay bill. But it might be desirable not to disclose the particular point on the scale or range or the size of bonus received by particular individuals. Outside practice is generally to keep salary information of this kind confidential and this helps to avoid dissension on the basis of personal comparisons. On the other hand, the tradition in the public service is of greater openness on salary arrangements. Publicising bonuses or other awards for merit would give the recipients open recognition in addition to their purely financial reward.

and the introduction of a series of confidential payments to individual civil servants could attract public criticism

Conclusions

29. Any organisation needs to be able to acknowledge and encourage good performance among its staff. In the non-industrial Civil Service promotion

has traditionally been seen as the main form of incentive although there has been increasing discussion in recent years of the possibility of introducing other more direct incentives whether financial or non-financial. Relating pay more closely to performance is one option which in principle has strong attractions and is widely used outside. A move to introduce merit pay in the Civil Service would, however, require careful consideration because of the particular circumstances which apply to its public service environment. The Government will very much welcome the views of the Committee on both the principle of introducing merit pay into the Civil Service and the basis on which it might be applied in practice if the Committee concludes that its introduction would be desirable.

30. The Government would also welcome any more general observations which the Committee may have on the current use of incremental pay scales within the Civil Service pay system.

INCREMENTAL SCALES IN THE NON-INDUSTRIAL CIVIL SERVICE**Introduction**

1. This note describes the present use of fixed incremental pay scales in the non-industrial Home Civil Service.
2. As the Factual Background Memorandum described*, Civil Service posts and the staff who occupy them are grouped into grades. The posts in a grade are of comparable job weight and responsibility level, and all members of a grade have common pay rates. Over 98% of permanent staff work in grades whose pay takes the form of fixed incremental scales: ie a designed series of points between a minimum and a maximum through which the individual progresses according to pre-determined rules.
3. Almost all other civil servants are paid on flat rates. These include all those in the Open Structure at Under Secretary level and above. Flat rates are also paid to some staff at lower levels where a post is at the top of a hierarchy (such as Prison Governors (Class I)) and to some staff on short-term engagements.
4. The pay scales for each grade are reviewed annually and the revised rates are promulgated as part of the annual pay settlement. (A copy of the 1981 'Code Memorandum' listing each of the main scales below the Open Structure has been made available to the Committee). The attached Table gives examples of some current incremental scales, calculated on a nil-cost basis.

The Present System

5. The system of regular progression along pay scales is of long standing in the Civil Service. At one time increments depended on the provision of a certificate of satisfactory service by a superior officer. Since in practice these were rarely withheld, the requirement of certification was removed during the Second World War on grounds of administrative economy. The normal

* Factual Background Memorandum on the Non-Industrial Home Civil Service, submitted to the Inquiry on 7 September: chapter 2, paragraphs 2.2-2.4

practice is that staff move automatically each year to the next incremental point (until they reach the maximum) unless their annual staff report is an adverse one. Even then other sanctions (including premature retirement procedures) may be regarded as more appropriate, and in practice increments are withheld or withdrawn extremely rarely.

6. The philosophy underlying incremental scales is that the rate of pay for the grade is the scale taken as a whole together with the rules for progression through it. The basic assumption is that all competent staff will benefit from the full range of the scale. Under the pay research system the aim was accordingly to produce incremental scales which would reflect what equivalent staff in the outside analogue organisations would get as a result of normal pay and career progress. Information was collected by the Pay Research Unit about the maxima and minima of the pay scales in analogue organisations (where scales or ranges existed) and about the number of intervening steps and the rules about progression through these. The evidence did not provide comparisons of the actual distribution of staff at different points across a scale or range at any one time; but where it indicated that a proportion of outside staff did not reach the maximum of their scale (eg where merit pay arrangements or an 'efficiency bar' operated) the analogue rates were adjusted downwards in the pay research process to reflect the level normally attainable. Therefore the maximum of the Civil Service scale would not be based on pay rates which only a limited number of staff on outside scales or ranges could expect to receive but instead was intended to match the attainable maximum on the basis of the normal career progression of an individual of average competence. Once scales had been agreed which reflected rates of progression outside on this basis, any subsequent changes were made on a 'no extra cost' basis.

7. A strict application of the pay research system would have produced somewhat higher Civil Service scales if these had been associated with a merit pay system which altered the "normal" progression up these scales with the cost of a higher maximum offset by savings.

8. Apart from the limited use of the provisions to withhold or withdraw increments there are two main exceptions to the present automaticity of incremental progression. First, there is provision for special increases* for staff in certain grades for acquiring prescribed qualifications or on satisfactory completion of a period of service. Second, for some grades there is an efficiency bar at a certain point on the scale, beyond which the individual cannot proceed until he has shown (eg by passing an examination) that he is competent to perform the highest duties of the grade.† In practice, however, the great majority of civil servants, unless they resign or achieve promotion beforehand, reach the maximum of their scale. The proportions vary but about 35% of staff at clerical levels are on their maximum and 70-75% of staff at Senior Executive Officer, Senior Principal and Assistant Secretary levels. For the Service as a whole the average is some 50%.

9. The length of scales is not determined by any precise formula. The present scales have evolved over time under the influence of changing management requirements, taking account of evidence provided through pay research on the practice of organisations outside the Civil Service. An important factor is the relationship of scales to career progression. Some of the longer scales cater for several differing streams. The Clerical Officer scale, for example, contains 11 points in all, comprising five age-related points for entrants between 16 and 20 and a "main scale" with the further six points which entrants aged 21 and over enter directly. In general, however, there has been a trend both outside and inside the Civil Service towards shorter scales.

10. "Age pointed" scales, such as the Clerical Officer scale mentioned above, are widely used both in the Civil Service and outside, particularly where there is external recruitment to a grade. (An age-pointed scale may be defined as pay scale on which some or all of the points are linked to a

* An example of a **special increase** is the increase of £336 payable to Cadet Valuers on passing the Part 2 examinations of the Royal Insititute of Chartered Surveyors.

† An example of a scale with an **efficiency bar** is that for draughtsmen, who can progress only to the final four points of their scale after successfully completing a course run for the Civil Service by Kingston Polytechnic.

particular age, and the staff on these scales usually receive an increment on their birthday.) Such a scale ensures that an entrant to a grade who is above the minimum age does not receive more pay than an individual of the same age who entered the grade at the minimum and has progressed up the scale by annual increments. In the Civil Service such scales usually start at the minimum age at which it is normally possible to have obtained the entry requirement of the grade; and age points continue to the age by which most, if not all, external recruits will have entered the grade.

Costs

11. The average value of an increment for those who receive one is currently 4.6% of salary, but as half the staff are on their maximum the total gross cost of **additional** incremental payments each year is 2.3%.

12. In conditions of stability a fixed incremental system does not in itself add to the pay bill from year to year. If the flow of staff into, through and out of each grade is uniform, then the pattern of distribution of staff across the various points of the scale will not change from year to year. The effect is that the cost of increments paid to those moving up the scale is counter-balanced by the **lower** rates paid to new entrants to the grade. However, if the rates of recruitment, and wastage and retention alter from year to year there can be some additional cost or saving in the overall pay bill. If an organisation is expanding, a fixed incremental system will marginally reduce the pay bill by comparison with a system of flat rates because the proportion of staff at the lower points of the incremental scales will increase. Conversely when an organisation is contracting there will be a marginal increase because proportionately fewer staff will be entering the scales at their lower points. The effect of this was to add 0.5% (or £15 million) to the Civil Service pay bill in 1981-82.

DISTRIBUTION OF THE POPULATION WITHIN TYPICAL ADMINISTRATION GROUP GRADES

SENIOR EXECUTIVE OFFICER		EXECUTIVE OFFICER			CLERICAL OFFICER		
£	%	AGE	£	%	AGE	£	%
9232	0 (ie 0.1)	18	4069	0 (ie 0.004)	16	2594	0.5
9553	0 (ie 0.2)	19	4578	0 (ie 0.2)	17	2895	1
9928	1	20	5273	2.5	18	3301	2
10302	7		5744	8.5	19	3464	3
10730	15		6225	11.5	20	3627	3
11265	77		6696	15.5			
			7247	62		3976	9.5
						4111	10
						4251	7
						4392	8
						4701	12
						5102	44
	<u>100</u>			<u>100</u>			<u>100</u>

Note Flat rates calculated at "nil extra cost" and based on staff numbers and incremental distributions at 1 October 1981 would be £11,101 for the SEO grade; £6,866 for EO; and £4,578 for CO.

OUTSIDE PRACTICE

1. The 1973 report on incremental payment systems by the Office of Manpower Economics remains the most comprehensive source of information prepared within government on the types of pay systems used outside the Civil Service. More up-to-date information on outside practice is available in the reports on merit pay by the PRU and the OME.

2. In 1973 OME found that over 90 per cent of non-manual employees in the public sector were on fixed incremental scales with automatic progression. In organisations using this method of payment a relatively small number of white collar employees were paid on flat rates, mostly in catering and other ancillary services or at the most senior level in the organisation.

3. In the private sector the OME found a much smaller percentage of non-manual employees on fixed scales or, (even less commonly) flat rates. Some 80 per cent to 90 per cent of management and other senior staff were paid under variable systems: mainly pay ranges with considerable flexibility in the allocation of salary points. But most people on variable systems, apart from those at the top of their range, received some annual addition to their salary in recognition of continued service and greater experience: Fixed incremental systems were used more for clerical and technical staff. One survey quoted by OME found that 40 per cent to 50 per cent of firms used age scales for male clerical and office staff over 18 although 25 per cent or less at age pointed scales above 20 years. Another survey reported fixed scales with limited flexibility for 25 per cent of technical staff and 35 per cent of clerical staff. Reward for long service was recognised by the payment of an annual bonus in 8 per cent of the firms.

4. The later reports by the OME and the PRU were carried out in 1979. These indicated a widespread use of performance-related pay especially at senior levels. 93 per cent of the private sector organisations surveyed by OME had discretionary pay systems for staff at executive, board member and senior management levels. These enabled pay adjustments to be used not only for recognising merit but also for other incentive purposes such as encouraging staff to accept job moves or to discourage them from leaving. In some organisations merit systems operated for senior but not for junior managers, particularly if there was collective bargaining on salaries at lower levels. There was a wide variety of forms of merit pay systems in use

including range pay, bonuses, profit sharing and share incentive schemes. The PRU study found that performance-related pay systems were widely used, especially in the private sector where they applied to more than three-quarters of the occupational groups covered by the survey. In the public sector and in non-manufacturing organisations, however, automatic incremental scales predominated. The survey found an increasing incidence of performance-related pay as responsibility levels increased and this pattern was consistent in both the private and public sectors. Over half of organisations in the public sector paid their senior and middle managers on a performance-related system and nearly all organisations in the private sector did so. Again a wide variety of pay systems was reported. These included flexible incremental scales with provision for varying the rate of progression and pay ranges. Most performance-related pay systems were linked to more general procedures for staff appraisal.

Withholding and Withdrawal of Increments

1. As is explained in Annex A, grades at Assistant Secretary level and below are paid on incremental scales with fixed minima and maxima and annual progression through the intervening points. Departments have discretion to withhold or withdraw increments on disciplinary or inefficiency grounds but these provisions are rarely used. The criteria for "unsatisfactory performance" are markings in the bottom two boxes (5 and 6) in the annual report form. Two Box 6 markings can lead to compulsory retirement. Legal advice is that on the basis of present rules an increment could be withdrawn for a Box 6 marking and withheld for a Box 5 or 6 marking.

2. A very small proportion of staff receive Box 5 or Box 6 markings, and persistent poor performance may lead to the institution of compulsory retirement procedures, rather than the application of financial sanctions. Cases of unsatisfactory performance are, however, frequently found to be due to serious personal or domestic problems which make pay or other sanctions inappropriate.

3. A full list of the "boxes" and rough proportions of staff awarded them is as follows:-

Box No	Definition	*Rough Proportion of Staff with this Marking
1	Outstanding Exceptionally effective)	
2	Very Good More than generally) effective but not) positively outstanding)	40%-75%
3	Good Generally effective	20%-50%
4	Fair Performs duties) moderately well)	5%-10%
5	Not Quite Adequate Definite weaknesses) make him/her not quite) good enough to 'get by')	1%
6	Unsatisfactory Definitely not up to) the duties)	

* Note These figures are from a sample of Departments. They show the range within which the figures from individual Departments vary.

14 FEB 1982





CC JV

Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

24 February 1982

Michael Scholar Esq.
10 Downing Street
LONDON
SW1

Dear Michael,

EVIDENCE TO MEGAW ON REDUCTIONS IN CIVIL SERVICE MANPOWER

The Megaw Inquiry has asked for evidence on methods of achieving staff reductions in the Civil Service.

.... The attached draft has been prepared in response to that request. It has been cleared by Ministers and subject to any comments the Prime Minister may have, the Chancellor would like to send the paper to the Inquiry within the next few days.

I am copying this letter to Jim Buckley (Chancellor of the Duchy of Lancaster), David Omand (Defence), David Clark (Social Services), Richard Dykes (Employment), Jim Nursaw (Attorney General), Mrs Dundcan (Lord Advocate) and David Wright (PS/Sir Robert Armstrong).

*Yours ever
Peter*

P.S. JENKINS
Private Secretary

NOTE ON METHODS OF ACHIEVING STAFF REDUCTIONS IN THE CIVIL SERVICE

Introduction

1. This paper has been produced in response to the Committee's request for information about manpower savings. The Government came to office in May 1979 with a commitment to "reduce waste, bureaucracy and over-government". The first step was a ban on Civil Service recruitment which, subject to exceptions which required specific Ministerial authority, lasted for three months from 22 May 1979. Recruitment in 1979 was 48,600 against 64,700 in the previous year. Since the ban a tight grip has been maintained on all aspects of manpower.
2. The 1979 non-industrial pay negotiations were virtually complete when the Government took office. To help contain the cost of the settlement they decided to stage the implementation of the pay settlement and to reduce manpower (and related administrative expenditure) by about 3%. Similarly in 1980, to help keep the pay settlement within Cash Limits there was a further 2½% cut in manpower costs. This pressure on the staffing expenditure of all Departments created a climate which encouraged the search for greater efficiency and the cutting out of waste.
3. At the same time the Government set in hand longer term studies of the scope for cutting out functions and increasing efficiency. In December 1979 they announced plans for further reducing the size of the Civil Service. These plans amounted to 40,000 posts over and above the 20,000 which had already been achieved. It was also made clear that further savings were expected to come from additional

studies and reviews of activities.

The Government's Long Term Policy

4. In May 1980 the Prime Minister extended the Government's commitment to reductions by announcing that by 1984 the Civil Service would be run down to about 630,000 from about 732,000 in April 1979 (Annex A). That would be a reduction of 102,000 and result in the smallest Civil Service since the end of the war. Following further detailed work targets were set for each main department (or group of departments) and announced to Parliament on 27 November 1980 (Annex B). The targets represented the Government's best assessment of what each Department should be able to achieve by 1984. The departmental targets totalled 615,000 (a 16% reduction on 1 April 1979); 15,000 posts were to be held as a centrally administered contingency margin. The targets for individual departments are shown in the table below. That sets out the progress to date and gives an indication of the differences between departments.

	<u>1 April 1979*</u>	<u>1 January 1982</u>	<u>% Change</u> <u>1.4.79 -</u> <u>1.1.82</u>	<u>1.4.84</u> <u>Target</u>	<u>% Change</u> <u>1.4.79 -</u> <u>1.4.84</u>
MAFF	13,956	13,074	- 6.32	11,600	-16.88
Chancellor/Exch	138,156	121,379	-12.14	110,600	-19.95
Defence	247,660	221,534	-10.55	200,000	-19.24
DES	2,647	2,478	- 6.38	2,200	-16.89
D Emp Group	53,652	58,517	+ 9.07	49,000	- 8.67
Energy	1,267	1,152	- 9.08	1,100	-13.18
Envir & Ord Surv	56,039	43,999	-21.49	41,400	-26.12
FCO/ODA	12,078	11,194	- 7.32	11,100	- 8.10
DHSS	98,369	96,849	- 1.55	87,700	-10.85
Home Office	33,490	34,856	+ 4.08	34,900	+ 4.21
Industry	9,514	8,414	-11.56	7,300	-23.27
Lord Chancellor's Depts	16,518	16,199	- 1.93	16,000	- 3.14
Scottish Office	11,119	10,581	- 4.84	10,000	-10.06
Trade, OFT, ECGD	9,956	8,967	- 9.93	8,400	-15.63
Transport	13,908	13,191	- 5.16	10,700	-23.07
Welsh Office	2,607	2,263	-13.20	2,200	-15.61
Other Depts	11,364	10,770	- 5.22	10,800	- 4.96
Contingency	-	-	-	15,000	-
TOTAL	<u>732,300</u>	<u>675,400</u>		<u>630,000</u>	

* Some of the figures in this column have been amended to take account of subsequent machinery of government changes.

Progress to Date

5. It has been recognised throughout that the possibilities for reductions vary; some departments are planning, or have already made, policy changes which involve dropping or radically changing some of their functions; for example in 1980-81 Inland Revenue saved 1,200 staff as a result of the abolition of the lower income tax-band and the abolition of continuous referencing of the rating valuation lists. In some areas there is greater scope for privatization; for example the Property Services Agency saved over 1,000 staff by contracting out building maintenance work. More than 500 staff were saved when certain vehicle licencing work was transferred from the Department of Transport to the Post Office. All Departments are required to simplify their procedures and to seek greater efficiency; opportunities for making reductions have been identified through detailed study of particular operations and procedures in Rayner scrutinies, staff inspections and other efficiency reviews. Work on these will be maintained, together with the general squeeze on resources. Such measures have saved, for example, in 1980-81 1,000 staff in Inland Revenue by new PAYE procedures arising from two Rayner scrutinies and almost 8,000 staff in MOD in 1980-81 by elimination of non-essential tasks, general streamlining, and acceptance of lowered standards of service.

6. For the past eighteen months a detailed Quarterly Report has been made to the Treasury and Civil Service Select Committee on changes in Civil Service manpower. A consolidated report was also made for 1980-81 which set out information on the categories of manpower reductions - increases in efficiency, dropping of functions, privatization, hiving off etc. A copy of the report is attached. Briefly, this shows that within the overall squeeze on resources about 16,000 posts were saved by efficiency and streamlining

including reductions in standards of service); some 7,000 posts were saved by dropping or materially curtailing functions; privatization and hiving off produced over 2,000 more. In some areas additional tasks had to be taken on - there were increases of some 3,000 posts.

Consultation with the Unions

7. It is a long standing principle that the determination of manning levels in the Civil Service is a matter for Ministerial decision and should not be settled by negotiation. The present Government has reaffirmed that principle. Therefore, although the unions have been kept informed of the Government's intentions, and Departments consult with their trade union sides as they think appropriate, the Government's programme for reducing the size of the Civil Service was not negotiated with them.

Relationship of Pay and Manning

8. The financial provision for pay in cash limits reflects the planned staffing levels for the year ahead, including any reductions to be made. This will be the case in 1982-83, as in previous years. There is a relationship between manpower reductions and pay rates in that pay settlements higher than the assumptions underlying cash limits can involve or even compel savings in manpower or other administrative costs over and above those already planned. In addition to the measures set out in paragraph 2 above, the 1981-82 increase/^{which is} equivalent to an average increase of 7½% on basic rates, is being accommodated within a 6% factor. The paper which has been submitted to the Inquiry on cash limits describes the background in more detail, in paragraphs 28-33.

Job Security

9. The Government has given an undertaking that manpower reductions will be achieved by means of natural wastage where possible. A separate paper on job security is due to be submitted to the Inquiry shortly.



Treasury Chambers, Parliament Street, SW1P 3AG

01-233 3000 24 February 1982

Michael Scholar Esq
Private Secretary
No.10 Downing Street
LONDON SW1

Dear Michael,

MEGAW INQUIRY : EVIDENCE ON PRODUCTIVITY PAY

... I enclose a draft paper on the scope for introducing productivity pay in the non-industrial Civil Service, which has been prepared at the Inquiry's request.

The paper argues that productivity pay would not be a suitable way of improving efficiency in most parts of the non-industrial Civil Service. But it points out that in certain areas (such as the Royal Mint and the Stationery Office) there may be a case for delegating greater control over pay and other costs more generally to local management. In that case the scope for introducing productivity pay would be one item to be considered in setting the total "pay package" in the establishment concerned. The line taken in the paper is consistent with points made on productivity pay in evidence to the Inquiry by the main employing departments, and by the Chancellor when he gave oral evidence on 8 December.

If the Prime Minister and other Ministers have no objections the Chancellor proposes to submit the paper to the Inquiry on Friday, 26 February.

I am sending copies of this letter to the Private Secretaries to the Chancellor of the Duchy of Lancaster, the Secretaries of State for Defence, Social Services and Employment, the Attorney General, the Lord Advocate and the Secretary to the Cabinet.

Yours ever,

P S

P S JENKINS
Private Secretary

PRODUCTIVITY PAY FOR THE NON-INDUSTRIAL CIVIL SERVICE

Introduction

1. This paper considers whether productivity pay bargaining should have a place in future arrangements for determining pay in the non-industrial Civil Service. It is not concerned with using pay to reward (or to penalise) the performance of individual members of staff; this is being covered in a separate paper on merit pay.

2. Productivity bargaining has not in general been seen in the past as an appropriate means of encouraging improvements in efficiency in the non-industrial Civil Service. This paper sets out the reasons for this view, on which the Government will welcome the Committee's comments. The paper also considers the possibility that there may be scope for considering pay and productivity arrangements in a limited number of areas, for example where the work is of a quasi-commercial nature with scope for management to have more general responsibility for settling pay and other conditions in the light of the particular requirements of that establishment.

Productivity Bargaining

3. Pay and productivity schemes seek to relate the pay and performance of a specified group of staff in order to provide an incentive for members of the group covered by the scheme to work more efficiently. The aim may be to achieve increased output with the same number of staff or to enable the same output to be produced with fewer staff.

4. Productivity schemes are a fairly common feature of outside practice in pay systems for manual employment, but much less so for non-manual employment. Annex A gives figures from the New Earnings Survey on the incidence of 'payment by results' (PBR)* in both manual and non-manual employment between 1973 and 1981. Table 1 shows that in 1981 PBR payments accounted for 2.9% of non-manual earnings generally, whereas for manuals the proportion was 7.8%. The percentage of non-manual employees receiving PBR payments was 15.4%, compared with 42.4% of manual employees. Table 2 shows the figures for selected categories of non-manual staff. The highest proportion of average earnings accounted for by PBR was amongst sales staff. In the categories most comparable to work in the non-industrial Civil Service (including managerial and clerical) the proportions were much lower, ranging in 1981 from 1.3% to 2.8%.

* The NES definition of Payment by Results is "all payments under piecework and other systems of payment by results, bonuses including profit-sharing, commission and other incentive payments, with the possible exception of any such payment treated as overtime earnings". This definition goes somewhat wider than that of productivity pay schemes as discussed in the present paper. For example, the definition would include within its scope the proficiency payments for typists and data processors in the non-industrial Civil Service. The NES statistics do, however, provide the most comprehensive information available in this area.

See also note at Annex A, Table 1, on changes in coverage of PBR payments in the 1981 NES.

Outside schemes take a variety of forms. Some apply to specific establishments or groups of staff whose outputs and inputs can be precisely measured. They normally involve regular additions to pay rates, based on the changes in output achieved. Others do not rely on unit measurement but apply to larger groups; they are often company-wide and may be related to profits, or to sharing the benefits of reduced labour costs or improved working practices in the organisation as a whole. Schemes of this kind may not in all cases require improved performance by staff, but may reflect the introduction of new machinery, or more favourable market conditions. They generally take the form of one-off bonuses or an element incorporated in the annual pay increase. There was a sharp growth in the use of productivity-related payments in both the manufacturing and non-manufacturing sectors after August 1977, when stage III of the former Administration's incomes policy was introduced. This allowed overall increases in a company's wage bill of not more than 10 per cent, but extra payments above this level if they arose as a result of a self-financing productivity scheme. Generally speaking, the trend in recent years appears to have been away from precise "work measured" schemes towards company-wide schemes covering both manual and non-manual workers.

The Present Position In The Civil Service

6. There are at present no pay and productivity schemes in the non-industrial Civil Service⁶. A large number of productivity schemes have, however, been introduced in the industrial Civil Service over the last 10 years mainly in areas such as the Royal Ordnance Factories and Dockyards where there is a tangible and readily measurable output. On average productivity bonus payments account for about 10 per cent of the earnings of industrial civil servants. For the most part each productivity scheme has been designed for one establishment or part of an establishment. None has included the associated non-industrial staff. This can give rise to difficulties particularly at the interface between industrial civil servants receiving productivity payments and their supervisors who do not share in the same scheme. Outside practice appears to be designed to ensure that those who are in supervising jobs have a reasonable pay differential over those they supervise. The existing Civil Service grading structure which groups supervisory staff together with those engaged on other duties has made it more difficult to pursue this approach in the non-industrial Civil Service.

7. The general arrangements for maintaining and improving efficiency in the non-industrial Civil Service have been described in a separate memorandum. No direct payment is made for any of these measures. However, to the extent that the pay rates of staff with whom comparisons were made under the pay research system reflected payment for productivity and cooperation in efficiency, these would have fed through the Civil Service pay rates. (In the

⁶ There are proficiency payments for some grades eg typing and data processing. In the case of the data processor grade the proficiency payment is in part related to the achievement of set levels of output by the individual data processor, but not by the unit within which he or she works. Customs and Excise staff engaged on preventive duties who made seizures of undeclared goods in passengers' baggage or from rummaging ships were at one time given small rewards, but these were discontinued in 1979 (see paragraph 6.1 of the evidence submitted to the Inquiry by Customs and Excise.)

ast (1980) pay research exercise the outside rates reported for some of the main administrative and specialist grades* included on average about 1% for productivity payments). This approach to fixing pay rates assumed that civil servants would cooperate fully in measures to improve efficiency in government departments, an assumption which has generally been justified (although there have been problems in some areas in recent years, particularly where there is a concern over possible job losses). But this approach to pay involved no specific comparisons of the levels or rates of achievement of efficiency improvement as between the Civil Service and the outside organisations. The Government has made clear its view that the automatic application of pay comparisons in this way without regard to other relevant factors could not be justified in any future pay system for the non-industrial Civil Service.

Productivity Schemes For The Non-Industrial Civil Service

8. The underlying principle behind improving productivity or efficiency is to reduce the ratio of input to output: in other words to make the resources which have to be put into an operation a smaller fraction of its end product. As described in paragraph 5, pay and productivity schemes may be operated at a number of organisational levels, according to the degree of precision possible in measuring work, and the degree to which motivation of smaller or larger groups is the aim.

9. Outside the Civil Service two main types of scheme are found at company level (taken here as broadly comparable **either** with the Civil Service as a whole **or** with any large department). First, there are those which rest on a broad form of output measurement. These include profit-sharing schemes⁷; and Added Value Schemes⁸. However, they have very little application in most parts of the non-industrial Civil Service, where **output** cannot be costed on the basis of normal commercial criteria, even though **inputs** such as accomodation and labour costs generally can be.

* Note: The annual Pay Research Unit reports provided information about the composition of the outside pay rates reported, including the value of productivity payments where these occurred. The figure quoted is based on an analysis of 1979-80 pay research reports for the Principal, Executive Officer, Professional and Technology Officer IV, and Clerical Officer grades.

⁷ The 1978 Finance Act introduced tax relief provisions for profit-sharing schemes. The basic principle is that employees will receive income tax relief on shares in their employing company bought for them out of company profits and held on their behalf by trustees for a period.

⁸ Added value is defined as the difference between revenue received by a company from the sale of its products and services and the amount the company had to spend on raw materials and services needed to produce the goods. As such it measures productivity obtained in the production process by comparing the financial output with the cost of the services and materials bought in. A number of schemes of this kind were introduced during the period of incomes policy constraint in the late 1970's.

10. Secondly, there are schemes which do not rest on measured outputs, but place more emphasis on inputs and working practices. These include payments, for instance as part of the annual pay settlement, to secure the co-operation of staff in the use of new technology or in programmes of staffing reductions. Schemes of this kind have sometimes also involved the "buying out" of existing working practices where these are a hindrance to efficient working methods. A danger of such schemes, unless they can be very carefully controlled, is that staff may receive higher pay regardless of whether increased effort has been required from them to achieve this and that the requirement to "buy" changes in working practices is extended to cover a wider range of variations.

11. In the non-industrial Civil Service successive Governments have taken the view that management itself must judge the level of service required in each department. Similarly, the manning and grading levels necessary to maintain Government services are not negotiable, although they are matters for consultation with the unions. While savings in departmental manpower and administrative costs have contributed to meeting the cost of Civil Service pay settlements in the last two or three years, the establishment of a direct link between the two would thus mean a departure from past practice. The Government have, for example, taken the view that it would be inappropriate to agree to any general additions to pay rates or changes in hours or leave entitlements as part of any agreement with the unions on the introduction of new technology.

12. In any new pay arrangements it would, however, be a natural presumption that the extent to which staff were co-operating in efficiency improvements would be one factor to be taken into account in setting total pay rates. But the Government does not consider that schemes based on broad measures of outputs or inputs would be appropriate at national or departmental level in the non-industrial Civil Service.

Schemes for Specific Groups of Staff

13. Arguably productivity schemes applied to specific groups of staff doing work which can be precisely measured have greater advantages in management terms. In these circumstances it should be possible to maintain adequate control through the measurement system; the scheme should provide more direct motivation and incentives; and it can thereby build on and foster group co-operation and cohesion. However, there would be a number of drawbacks in operating pay and productivity schemes of this kind in the non-industrial Civil Service.

14. First, schemes of this kind can, by definition, be applied only in areas where work can be measured in a sufficiently precise and objective way. In some parts of the non-industrial Civil Service, as in other organisations employing white collar staff, there are very considerable problems in establishing suitable output measures. Much of the work there in both general administrative and more specialist areas is difficult to measure in quantitative terms and is responsive to demands from outside, the nature and frequency of which are unpredictable. The work may also vary considerably in content over periods of time.

15. There are some types of non-industrial work which can be fairly precisely measured. This is mainly so where the tasks are of a basically routine and repetitive nature, such as typing pools, data preparation units and messenger services. In other areas such as the administration of social security and taxes, measurement based on financial throughput (eg taxes

llected, benefits paid out) is clearly insufficient as a guide to levels of efficiency; but "output" can be measured in unit terms based on the number of cases which are processed. A number of local office networks, including those in the departments of Health and Social Security, Employment and the Inland Revenue have "staffing formulae" which are used to measure unit workloads and to calculate the staff numbers required for these on the basis of pre-set processing standards. A variety of other performance indicators are in use as aids to local and senior management in these and other areas of Civil Service work. But in areas which are concerned with providing a service and are not geared to normal commercial criteria, there would still be real drawbacks in making pay directly dependent on **increases** in the throughput of work. In such areas the maintenance of standards of output matters as much as increases in quantity. There is a risk in any pay and productivity scheme that a drive for increased output can lead staff to attach less importance to quality. Although quality checks are an integral feature in many of the more routine areas of Civil Service work, there is a real difference between the use of quality assurance techniques in a production line environment and maintaining standards of service to clients whose personal needs and circumstances inevitably differ. Considerations such as these have been the main reason why pay and productivity schemes have not been introduced in many parts of the non-industrial Civil Service, even where the basis for them would exist in terms of work measurement arrangements.

16. Other considerations about the cost and working practices associated with pay and productivity schemes also arise at local level. Much outside experience indicates that measured schemes can import rigidities into working practices which subsequently have to be bought out in negotiation. Where efficiency improvements result from the introduction of new equipment or new procedures no greater effort may be required from the staff involved. In these circumstances the savings should be directed to providing a less expensive service to the taxpayer. Moreover, staff who are already operating new working practices, without special financial recognition, would resent other staff being paid for their introduction elsewhere.

17. If pay and productivity schemes were introduced only in those areas susceptible to measurement this could cause difficulties with those staff who felt that they were working hard and giving of their best but were excluded from arrangements of this kind. If they received relatively less pay in consequence this could have a demotivating effect. This would be the case particularly where staff engaged on more difficult and complex work could not be covered by the scheme. Furthermore if pay and productivity schemes were based for example on local offices this could cause problems with the movement of staff between them and could lead to distortion of recruitment and posting with different rates of pay for similar work within department and within the same locality.

18. There is obviously a balance of judgement here. But is it is for reasons such as those described that work-measured pay and productivity schemes have not been introduced up to now in the non-industrial Civil Service, beyond the existing arrangements to encourage proficiency in areas such as typing and data processing which require particular application and skill. At the same time management's aim is to ensure that all working procedures are as efficient as possible, and that both the procedures and the staff complements appropriate to these are regularly reviewed.

Schemes Based on Single Establishments

19. There may however be some areas of Civil Service work whose special circumstances could provide a more appropriate environment for pay and productivity arrangements. There are, for example, some areas where outputs

can be measured on a commercial basis, such as the Stationery Office and the Royal Mint. In establishments of this kind, which are essentially self-contained, there may be a case for increasing local management's control generally over pay, staffing and other conditions. The scope for productivity payment schemes could then be one factor to be taken into account by local management, together with local market factors and other conditions. This approach to the pay of a particular establishment would presumably require its pay arrangements as a whole to be dealt with separately from those for the main body of the non-industrial Civil Service, with the total pay package being reappraised.

20. However, even in limited areas such as these the question of introducing pay and productivity schemes for non-industrialials would be a finely-balanced one. The manufacturing work in most of these areas is itself performed by industrial civil servants. The contribution made by non-industrialials is less directly measurable even though the "output" of the organisation as a whole can be identified. Moreover, these establishments include a number of different types of work, each of which will contribute in differing degrees to the actual "output" measured. There would therefore be difficult questions both about the adequacy of any aggregate measurement system, and about whether it should apply to all staff, rather than to those groups (whether manual or non-manual) whose work was capable of more precise measurement.

Conclusions

21. The issue discussed by this paper is not an easy one and the Government will welcome the Committee's general views on it. For some types of work, particularly manual, there can be considerable advantages in establishing a direct link between pay and productivity in terms of improved efficiency. But schemes of this kind are not widely used in white collar work outside the Civil Service. Within the Civil Service, considerations about the effects of productivity payments on quality and standards of service, and on attitudes more generally to co-operation in of change and improved efficiency, have so far meant that no pay and productivity schemes have been introduced for non-industrial staff. There may, however, be scope for further examination of the feasibility of productivity bargaining schemes in certain areas which are relatively self-contained and whose outputs can be measured on commercial criteria. In establishments such as these, there may be a case for increasing local management's control over staffing and other costs more generally. The Government will wish to consider the possibility of moving in this direction in the light of the Inquiry's general recommendations while recognising that the Committee will not have the time available to it to undertake a detailed study of these possibilities.

H M Treasury
February 1982

TABLE 1

Payments by results*: non-manual and manual occupations, 1973 to 1981 (men aged 21 and over and women aged 18 and over whose pay for the survey period was not affected by absence)

	Payments by results as a proportion of gross pay		Proportion of employees who received payments by results	
	Non-manual	Manual	Non-manual	Manual
1973	2.2%	9.7%	5.9%	38.2%
1974	2.2%	10.2%	6.0%	39.9%
1975	1.6%	8.6%	5.6%	40.0%
1976	1.7%	8.1%	5.7%	36.8%
1977	1.8%	8.1%	5.6%	35.6%
1978	2.3%	9.0%	8.7%	40.4%
1979	2.3%	9.4%	10.6%	42.2%
1980	2.1%	8.8%	9.6%	40.5%
1981	2.9%	7.8%	15.4%	42.4%

Source: New Earnings Surveys, 1973 to 1981

* Note: "All payments under piecework and other systems of payments by results, bonuses including profit-sharing, commission and other incentive payments, with the possible exception of any such payment treated as overtime earnings" (New Earnings Survey definition).

Until 1981 the NES recorded all PBR payments paid on a regular weekly or monthly basis, but omitted many of those paid periodically, including annual bonuses. For the 1981 NES, the guidance given to employers about completing their returns was changed to ensure that an appropriate proportion of these periodical payments (expressed on a weekly basis for the group of workers concerned) was included in the survey. The results for 1981 therefore show a truer picture of the scale of PBR schemes. It will be noted that the proportion of employees recorded as receiving payments is considerably higher in 1981 than the figures for previous years; but the change in the value of PBR payments as a proportion of gross pay is relatively small.

TABLE 2 **Payments by results in selected non-manual occupations: 1973 to 1981**

(men aged 21 and over and women aged 18 and over whose pay for the survey period was not affected by absence)

	1973	1974	1975	1976	1977	1978	1979	1980	1981
Payments by results as a proportion of gross pay									
Professional and related, supporting management and administration	N/A	2.5%	1.2%	1.4%	1.7%	2.1%	2.0%	1.9%	2.1%
Professional and related in science, engineering, technology and similar fields	N/A	N/A	0.7%	0.6%	0.5%	0.9%	1.5%	1.4%	1.6%
Managerial (excluding general management)	2.4%	2.2%	2.1%	2.1%	2.1%	3.1%	2.9%	2.5%	2.8%
Clerical and related	0.8%	0.7%	0.6%	0.6%	0.6%	1.4%	1.2%	1.1%	1.3%
Selling	14.0%	13.7%	11.9%	12.9%	13.9%	14.9%	13.9%	12.9%	13.1%
Proportion of employees who received payments by results									
Professional and related supporting management and administration	N/A	5.2%	3.5%	4.3%	3.7%	7.4%	9.4%	8.9%	13.6%
Professional and related in science, engineering, technology and similar fields	N/A	N/A	3.9%	4.1%	3.3%	7.8%	11.7%	10.7%	21.4%
Managerial (excluding general management)	9.8%	9.5%	9.5%	9.2%	8.7%	12.8%	15.0%	13.0%	18.2%
Clerical and related	3.7%	3.6%	3.8%	3.8%	4.0%	8.6%	11.1%	8.9%	18.0%
Selling	28.8%	28.3%	25.9%	28.3%	28.2%	28.7%	28.8%	28.2%	34.1%

Source: New Earnings Surveys, 1973 to 1981

Note: N/A - Not Available

*With the Compliments
of the
Secretary of State*

*Scottish Office,
Dover House,
Whitehall,
London, S.W.1 A 2AU*



Prime Minister @dc JV

SCOTTISH OFFICE
WHITEHALL, LONDON SW1A 2AU

Ms 24/2 Civil Service

MANAGEMENT - IN CONFIDENCE

The Rt Hon John Nott MP
Secretary of State
Ministry of Defence
Main Building
Whitehall
LONDON
SW1A 2HB

23 February 1982

Dear John,

Thank you for your letter of 9 February about your proposals on the manning of the Clyde Base. As you know, this is something about which I have had a strong personal concern for some time and I very much hope that what you are now doing, even though it appears to be on a very small scale, will provide an acceptable assurance against the sort of major disruption which we all fear.

I am copying this letter to the recipients of yours.

Yours ever,
George.

2 pps



Prime Minister

②

Mus 24/2

H M Treasury, Old Admiralty Building, Whitehall, London SW1A 2AZ

Telephone 01-273 } 5563
GTN 273 }

The Rt Hon John Nott MP
Secretary of State
Ministry of Defence
Main Building
Whitehall
LONDON SW1

22 February 1982

Dear John,

[Handwritten initials]

Thank you for sending me a copy of your letter of 9 February to George Younger giving your proposals for safeguarding the Clyde Submarine Base against the risk of further disruption of key areas by industrial action.

I entirely accept your judgment of what is needed to maintain the essential operational capability of the Base. I note that you will be consulting the Trade Unions fully on implementation (though not on the principles); that you have kept the replacement of civilians by servicemen to the minimum needed; that you will offer the unions some movement in the other direction; and that you will meet the relatively small additional costs from within your existing financial allocation.

I am happy with your proposal and I would be grateful if you would keep me posted about any future similar plans.

A copy of this letter goes to recipients of yours.

[Handwritten signature]

BARNEY HAYHOE



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cc to

SECRETARY OF STATE FOR ENERGY

THAMES HOUSE SOUTH
MILLBANK LONDON SW1P 4QJ

01 211 6402

Prime Minister.

hw

22nd

Rt Hon Sir Geoffrey Howe QC MP
Chancellor of the Exchequer
Treasury Chambers
Parliament Street
LONDON SW1

22 February 1982

ms

John Gifford

INQUIRY INTO CIVIL SERVICE PAY: GOVERNMENT EVIDENCE ON MERIT PAY

2/29

Thank you for sending me a copy of your letter of 2 February to Janet Young together with a draft paper to the Megaw Inquiry recommending the introduction of merit pay to the civil service.

I am sure you are right to assert that pay should be more closely related to performance, and that additional incentive may be necessary as promotion opportunities decline. It is, however, right for the paper to refer to the administrative difficulties in introducing a merit pay scheme and to the fact that some additional resource costs will be inevitable to ensure consistency of standards.

There are five additional points I would make:

- (a) it would be undesirable and counter-productive to say anything in evidence to Megaw about 'nil costs'. It should be sufficient to state that the Government will need to be satisfied that the cost of introducing any merit pay scheme can be contained within the appropriate cash limits;
- (b) if it is decided to introduce a scheme on the lines proposed I sincerely hope we can avoid any question (paragraph 25 (a) of the paper) of offering staff a choice between retaining present conditions or being covered by the new scheme. Civil Service pay is already complicated enough without having two categories of staff, one entitled to receive the annual general increase and the other not;
- (c) it will be absolutely essential for who is getting what merit pay (or 'bonus' or 'prime') to be kept a closely guarded secret;



- (d) for areas of civil service work where productivity can be measured eg photoprinting, messenger services, typing, data collection and processing, the merit pay proposals are too institutionalised. What is needed in these areas are 'productivity' incentives which might well outstrip merit pay awards.
- (e) Megaw might usefully be invited to look also at the long standing practice in the French Civil Service of paying merit bonuses (known as primes).

Finally, I support Janet Young's suggestion that officials be asked to produce a revised version of the paper which takes these and other points made by colleagues into account.

I am copying this letter to the recipients of yours.

*Yours
Nigel*

NIGEL LAWSON

20 FEB 1982



100

From: THE PRIVATE SECRETARY

2 Mr's



2

NORTHERN IRELAND OFFICE
GREAT GEORGE STREET,
LONDON SW1P 3AJ

Prime Minister.
MW
22/2

CCFO

P S Jenkins Esq
PS/Chancellor of the
Exchequer
Treasury Chambers
Parliament Street
LONDON

22 February 1982

Scan

Dear Peter,

INQUIRY INTO CIVIL SERVICE PAY: GOVERNMENT EVIDENCE ON LOCAL PAY

You sent me a copy of your letters of 8 and 11 February to Barnaby Shaw and Michael Scholar about evidence on local pay for the Megaw Inquiry. I am sorry that we were unable to meet your very tight timetable, but we have already warned Treasury officials that we wished to comment.

In addition to the 200 or so United Kingdom civil servants (UKCS) in the NIO, who are employed in London and Belfast, my Secretary of State is also responsible for the 29,000 members of the Northern Ireland Civil Service (NICS). At present pay for non-industrial staff is linked directly to that of the UKCS, so that any recommendations made by the Megaw Committee would presumably affect this group of civil servants. We would therefore like to see a reference in the Chancellor's paper to the existence of the NI Civil Service and the links between their pay and the pay of the UKCS.

More generally, we agree with the paper's conclusions that more work is required to obtain data on regional variations in pay, especially since the statistics gathered as part of the National Earnings Survey do not extend to Northern Ireland. Without this information, it is difficult to take a final view, but we are concerned about the additional costs which would result from the involvement of the NICS in local pay bargaining and about the possible effects of lower pay for civil servants in Northern Ireland on the economy of the Province as a whole.

Copies of this letter go to recipients of yours.

Yours sincerely
M W Hopkins

M W HOPKINS



NBPM cc. 54.

DEPARTMENT OF HEALTH AND SOCIAL SECURITY
ALEXANDER FLEMING HOUSE
ELEPHANT AND CASTLE
LONDON S.E.1
TELEPHONE: 01-407 5522

Michael Scholar Esq
Private Secretary
10 Downing Street
London SW1

22 February 1982

Dear Michael

INQUIRY INTO CIVIL SERVICE PAY : EVIDENCE ON THE NHS PAY SYSTEM

On ^{pk 9} 21 January 1982 David Clark wrote to you enclosing a copy of the NHS memorandum which he said had been cleared interdepartmentally at official level.

On 12 February Peter Jenkins wrote to David Clark giving the Chancellor's comments on the memorandum.

These have now been considered and all the amendments proposed have been accepted. I attach a copy of the revised memorandum which my Secretary of State intends to send to the Committee on Friday 26 February 1982.

I am copying this letter to the Private Secretaries to the Chancellor, the Secretaries of State for Defence and Employment, the Chancellor of the Duchy of Lancaster, the Attorney General and the Lord Advocate, and to the Cabinet Office Secretariat.

Yours ever
Mary McVerry
MARY McVERRY (MRS)
Private Secretary

Enc.

THE NHS PAY SYSTEM

Memorandum by the Department of Health and Social Security

Although the day-to-day running of the National Health Service is a matter for health authorities, the Government is ultimately responsible for it, and it is financed wholly from the Exchequer. In these respects, there is a parallel with the Civil Service and the general principles to which the Government drew attention in its initial evidence on future pay arrangements for the Civil Service - the need to give full weight to market factors and considerations of affordability - apply to it equally. Staff costs, like other costs, must be managed efficiently, or the public will receive a standard of health care which is less than could be bought by the money provided by the taxpayer. It follows that the arrangements for settling pay in the NHS must be justified by reference to the needs of the NHS, and not to the circumstances of other public services or other parts of the economy.

2. Nevertheless, there are common features about the current systems of pay determination for the Civil Service and for the NHS; and some major groups of NHS staff are engaged on work which is similar to that of analogous groups in the Civil Service, to whom their pay has been linked in the past. The Department welcomes the opportunity to outline these matters for the information of the Inquiry into Civil Service pay.

Outline of the NHS system

3. Within a total of about one million NHS staff in Great Britain the main groups are nursing (0.4m), ancillary (0.2m), administrative and clerical (0.1m), medical (60,000), professional and technical (60,000). Most operational staff are employed by the 90 area health authorities (AHAs) in England and 8 in Wales and by 15 Health Boards in Scotland. Certain planning functions, common or specialised services are provided by 14 regional health authorities (RHAs) in England and by a Common Services Agency (Scotland), and the Welsh Health Technical Services Organisation. In general individual health authorities are free as employers to fix staffing levels within cash limits. Exceptions are the creation of senior hospital medical posts and the most senior non-medical scientific posts that require central approval. In addition the Health Departments set a limit on the proportion of budget which may be spent on management. The recruitment of staff is a matter for individual health authorities. Vacancies for senior posts are normally advertised and filled by competition. The normal pattern is for staff to move from one authority to

another in the course of their career and on the occasion of securing promotion. There is no central or regional control of promotion arrangements as there is in the Civil Service. However on the occasion of major change in the administrative structure of the NHS - in 1974 and in 1982 - national ground rules for the filling of senior posts have been laid down.

4. Staff hold contracts with individual health authorities and enter into fresh contracts as and when they move from one authority to another. For all practical purposes eg superannuation, entitlement to annual leave, increments, NHS service is aggregated.

5. Terms of remuneration and conditions of service are fixed by central agreements negotiated, in the main, by the Whitley Councils for the Health Services (Great Britain). Doctors and dentists are outside the Whitley system: their terms and conditions of service are negotiated centrally with the Health Departments, but their pay is set on the recommendations of an independent Doctors and Dentists Review Body. Successive Governments have undertaken to accept the recommendations of the Review Body unless there are clear and compelling reasons to the contrary. In total there are over 20 separate negotiating bodies.

6. The present Whitley system is voluntary; it was established in 1948 and is firmly rooted. For some groups eg ancillary staff, national negotiations were established earlier.

7. Whitley and other national agreements take effect only when they have been approved by Health Ministers under Regulations, which require health authorities to pay neither more nor less than the approved terms. These are detailed and definitive and, with the exception of incentive bonus schemes for manual workers, make no provision for local bargaining.

8. The Management Sides of the Whitley Councils are made up of representatives of NHS management in Great Britain and the Health Departments, the former being in a majority. Because the cost of pay agreements is wholly met from the Exchequer and implementation requires Ministerial approval, Management Sides seek approval before making offers. A few years ago, Management Sides were advised that the Government interest in negotiations would be limited primarily to the cost of offers, and to other terms only when the implications were judged to be of fairly major significance to Government.

9. There is no national agreement on arbitration. Arbitration was commonly used to settle pay claims in the 1950s and 1960s. Thereafter it has fallen into disuse as an ordinary process of pay determination. This is because most disputes in recent years have involved a conflict between the trade unions' claim and Government policies on incomes. The present position is that in the event of a disagreement over pay it is open to management and unions by agreement to refer the matter to arbitration through the good offices of ACAS. Management Sides would not agree to arbitration without some assurance from Health Ministers that funds would be available to meet the eventual award. Such assurances have been given on a few occasions when Government has set up special inquiries eg Clegg, with an arbitral role.

Pay principles

10. Negotiations have of course been constrained by the terms of any prevailing national incomes policies. And in more recent years negotiations have been constrained by the pay factor in the NHS cash limit. This is mainly because the entire cost of pay offers is met from Exchequer funds - there is no recourse to rates as in local government. Moreover, there is only limited scope - particularly in the short run - for supplementing pay offers by reductions in staffing.

11. Subject to the overall level of resources provided by Government each negotiating group has sought to apply pay principles that have been developed over the years. These have tended to look to a greater or lesser degree to external analogues and may be summarised as follows:-

(i) The pay of about 150,000 administrative and clerical staff and medical laboratory scientific officers (MLSOs) (details in Appendix 1) has in the past followed that of analogous groups in the Civil Service; but the decision on cash limits in 1979/80 was followed by negotiations in which Management Sides of the relevant Whitley Councils concluded that they could not match the Civil Service settlements. The same happened in 1980/81.

(ii) About 230,000 staff have pay links with groups other than the Civil Service ie the ancillary staff (with local government manual workers) and the electricians and other maintenance craftsmen (with the Electrical Contracting Industry) - further details in Appendix 2. These links have not so far been broken.

(iii) About 460,000 staff, mainly nursing staff and professions supplementary to medicine, have had their pay determined largely by occasional ad hoc enquiries. An improved mechanism for pay determination is currently being sought (further details in Appendix 3).

(iv) About 90,000 doctors and dentists whose pay is covered by the recommendations of the Doctors and Dentists Review Body (DDRB). The DDRB looks at movements of earnings in other professions and at a number of other relevant factors.

But in more general terms, over and above any formal links, the tendency in the past has been for Civil Service pay settlements to play a very important part in setting the general tone for pay settlements in the NHS, as in the public service generally.

12. It seems unnecessary to go into very much extra detail about the systems that have been briefly outlined. In the case of (i) above, the parallels between NHS administrative and clerical grades and the related Civil Service grades were of long standing, although never based on formal job evaluation techniques; and the most recent comparison of MLSO and Civil Service analogues was a survey in 1970 by both Sides of the Whitley Council. In the case of (ii), the link has been based on broadly similar levels of skill and function, not a formal assessment. In the case of (iii) and (iv) the NHS is the predominant employer and broad comparisons have therefore been made with a range of different professions, many of them outside the NHS.

13. While external links and comparisons have in the past played an important part in determining NHS pay, they have been supplemented by internal linkages. For example, the pay of NHS physicists and biochemists has been linked to the scientific Civil Service and the pay of hospital pharmacists and opticians to that of NHS physicists and biochemists.

14. In general external linkages have been confined to certain key grades in the grading structures that have been developed to meet the needs of the NHS. Thus, for example, although the pay of NHS administrative and clerical staff was linked at five points with the Civil Service, pay for these categories varies in some cases according to a scale related to the population served by the health authority. This results in rather more gradations in salary than are judged suitable in the Civil Service. But these were all consistent with and interpolated around the key points of linkage between the two services.

15. The system that has been described is very much concerned with pay, meaning basic salaries or wages. Principles for determining conditions of service have not been developed to the same extent or in such precise ways. This is partly because the NHS is more concerned with providing 24 hour, seven days a week services than is the Civil Service or local government. In practice the terms negotiated in the three services do not differ very much.

Future developments

16. It is the policy to seek greater flexibility in the Whitley agreements, which will give health authorities rather more opportunity to match gradings to their particular needs. It is also desired to simplify the range of different salary scales that have been generated by the 20 or so negotiating groups by moving towards a smaller number of common scales or "spines". Of major importance is the commitment by Ministers to develop machinery for determining nurses' pay which will avoid the need for occasional ad hoc inquiries such as those undertaken by the Halsbury and Clegg Committees.

The inquiry into Civil Service pay

17. The Government's memorandum on future pay arrangements for the non-industrial Home Civil Service, already submitted to the Committee, draws attention to the need to ensure that pay rates adequately reflect the market and the availability of finance. As noted in paragraph 1 above, these considerations apply equally to the NHS; and the recommendations of the Committee are therefore likely to have important implications for the NHS.

18. The majority of NHS staff are employed in grades which have no links with the Civil Service. What will be relevant in their case is the general principles underlying the Committee's recommendations.

19. There may also be particular implications for those grades whose pay has been linked with that of grades in the Civil Service. Hitherto, the operation of these links has taken no specific account of market factors. If the future Civil Service pay system takes account of market factors specific to the Civil Service, it would be difficult to justify linking NHS staff to the resulting salaries unless these could be adjusted to take account of relevant NHS market factors. This could require a substantial increase, compared with the past, in the amount of information collected for NHS pay negotiations; the secretariat to the Management Sides of the NHS Whitley Councils has hitherto had no need to provide a data-gathering service such as that previously provided by the Civil Service Pay Research Unit.



PA MS 22/2
cc SV

CC
Jenkins

Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

19 February 1982

J. Buckley, Esq.,
Private Secretary to the Chancellor of the
Duchy of Lancaster,
Management and Personnel Office
Old Admiralty Building
Whitehall
SW1A 2AZ

Dear Jim

EVIDENCE FOR THE MEGAW INQUIRY

Thank you for your letter of 12 February. The Chancellor of the Exchequer has no points to raise on the paper and covering letter on discipline and dismissals in the non-industrial Civil Service. He was glad to see the inclusion in the paper of the final paragraph on appeal statistics. The Treasury will also be taking account of the estimated dismissal figures for 1981 in the separate paper we are preparing on job security.

The Chancellor would certainly be content for a survey to be undertaken in the Inland Revenue on the actual length of the procedures. Inland Revenue officials will be in touch with MPO officials to make the necessary arrangements for this.

I am sending copies of this letter to the Private Secretaries to the Prime Minister, the Secretaries of State for Defence, Social Services and Employment, the Foreign Secretary, the Home Secretary, the Attorney General, the Lord Advocate and the Secretary to the Cabinet.

Yours ever
Peter

P.S. JENKINS

2 FEB 1965





J. Nursaw

LEGAL SECRETARY.

2 #/s
9th MS 22/2

LAW OFFICERS' DEPARTMENT
ROYAL COURTS OF JUSTICE
LONDON, WC2A 2LL

19 February 1982

cc to

M C Scholar Esq
10 Downing Street
LONDON S W 1

Dear Michael,

MEGAW COMMITTEE - SALARIES IN THE LEGAL
CIVIL SERVICE

Thank you for your letter of
16 February. The Attorney General and
the Lord Advocate have now submitted
their evidence to the Megaw Committee
in the terms of the draft I sent you.
As that final draft was not circulated,
I am copying this letter and the
evidence as submitted to the Private
Secretaries to members of the Prime
Minister's group on Megaw.

*Yours sincerely,
Jim Nursaw*

12 FEB 1982



Civil Service

Prime Minister (2)

CE JV



DEPARTMENT OF TRANSPORT
2 MARSHAM STREET LONDON SW1P 3EB

MUS 19/2

The Rt Hon Sir Geoffrey Howe QC MP
The Chancellor of the Exchequer
Treasury
Parliament Street
LONDON
SW1

18 February 1982

ms

Dear Sir,

INQUIRY INTO CIVIL SERVICE PAY: GOVERNMENT EVIDENCE ON MERIT PAY

169 ✓ Thank you for sending me a copy of your letter of 2 February to Janet Young enclosing a copy of the draft paper on merit pay.

The need to relate the pay of civil servants more closely to their performance is clearly something to which we are hoping the Megaw Inquiry will give a great deal of attention, and I do not disagree in principle with the main recommendations in the paper on the options for the introduction of merit pay. I suspect, however, that the paper may have underestimated the difficulties which this might entail. In particular, the passage on confidentiality in paragraph 25 seems to minimise the objections which would be raised against the concept of undisclosed merit payments on the grounds that this offended against the principle of demonstrably equitable treatment for all civil servants.

I am also somewhat doubtful about the suggestion that the granting or withholding of pay increments should be linked with the annual reporting process. A very small percentage of officers are at present given Box 4 or lower marks for performance and this would be bound to become even less if the reporting officers knew that the pay of their staff was to be governed by the performance marking given in their reports. It might be preferable to place merit payments directly within the discretion of senior managers, who could be given specific annual allocations for disbursement to those members of their staff whose performance had been specially noteworthy.

Yours ever

David

DAVID HOWELL





SE JV
Prime Minister (2)

DEPARTMENT OF EDUCATION AND SCIENCE
ELIZABETH HOUSE YORK ROAD LONDON SE1 7PH
TELEPHONE 01-928 9222

Mrs 18/2

FROM THE SECRETARY OF STATE

The Rt Hon Sir Geoffrey Howe QC MP
Chancellor of the Exchequer
Treasury Chambers
Parliament Street
LONDON SW1P 3AG

18 February 1982

Dear Geoffrey,

MERIT PAY FOR CIVIL SERVANTS

Thank you for sending me a copy of your letter of 2 February to Janet Young. I have also seen her reply and letters from other colleagues.

I agree with Norman Tebbit that while there are attractions in linking pay to performance it would strengthen rather than weaken our paper for Megaw if we say more about and acknowledge the real difficulties of doing this in the Civil Service.

I am copying this letter to the Prime Minister, all members of the Cabinet and Sir Robert Armstrong. A copy also goes to Sir Derek Rayner.

Handwritten signature: G. Howe



NORTHERN IRELAND OFFICE
GREAT GEORGE STREET,
LONDON SW1P 3AJ

SECRETARY OF STATE
FOR
NORTHERN IRELAND

The Rt Hon Geoffrey Howe QC MP
Chancellor of the Exchequer
Treasury Chambers
Parliament Street
LONDON SW1P 3AG

18 February 1982

INQUIRY INTO CIVIL SERVICE: GOVERNMENT EVIDENCE ON MERIT PAY

You sent me a copy of your letter to Baroness Young of 2 February about the draft paper on merit pay for the Megaw Inquiry.

Although I accept that there are strong arguments in favour of the introduction of merit pay, I do not share your confidence that all the practical difficulties can be overcome. A scheme for performance related pay will have to be simple enough to be administered fairly without a substantial number of extra staff; and it will need to provide sufficiently large incentives to make it worthwhile. This will not be easy. I am not convinced, for example, that the extra financial rewards likely to be on offer at Under Secretary level will in fact encourage those who have reached this high level, against strong competition, to work any harder, or that it will be practicable for most of them to do so. Few of them now see their job so directly in terms of financial reward, and I think we should be wary of encouraging them to do so. I think we will have to look carefully at any recommendations made by the Megaw Committee to ensure that issues of this kind have been properly examined. Moreover, we shall have to consider the recommendations in the wider context; both the reviews of the Open Structure following the Wardale Report and the Rayner scrutiny of personnel management are relevant. At this stage I would therefore much prefer, like Peter Walker and Janet Young, to see our evidence adopt a more neutral tone.

Copies of this letter go to the recipients of yours.



✓ JV

Prime Minister (2)

DEPARTMENT OF EDUCATION AND SCIENCE

ELIZABETH HOUSE, YORK ROAD, LONDON SE1 7PH

TELEPHONE 01-928 9222

FROM THE SECRETARY OF STATE

Mus 18/2

P S Jenkins Esq
 Private Secretary to the
 Chancellor of the Exchequer
 Treasury Chambers,
 Parliament Street
 LONDON SW1P 3AG

18 February 1982

Dear Peter,

EVIDENCE FOR MEGAW INQUIRY: LOCAL PAY

You sent me a copy of your letter of 8 February about local pay for civil servants. My Secretary of State is content with the draft evidence on this subject proposed by the Chancellor for the Megaw Inquiry.

He has asked me to say that, although DES staff numbers are small, this Department's experience supports the conclusion that there would, in principle, be attraction in moving towards local variations in Civil Service pay. Over half the DES staff work in London but there is one substantial outstation in Darlington. Until recently the Department found it difficult to recruit good junior staff in London whereas in Darlington the Department's impression is that the pay rates have been more than adequate to attract good people. Matching local pay conditions more closely would have advantages for DES management, for example in helping to bring more promising young staff down to London.

I am copying this letter to the Private Secretaries to members of the Cabinet.

Yours sincerely,

MRS WILDE
 Private Secretary

1952



cc JV

2

Prime Minister

2 MARSHAM STREET
LONDON SW1P 3EB

Mus 18/2

My ref: H/PSO/10647/82

Your ref:

17 February 1982



See briefing

[Handwritten signature]

CIVIL SERVICE "SINGLE OUTSIDE ANALOGUE" GRADES

Thank you for sending me a copy of your letter of 25 January to Willie Whitelaw.

Comparatively few of my departmental staff have their pay linked with outside analogues; the biggest group are the Royal Parks Police, whose revised rates of pay have only recently been settled. A rather larger group of staff in this category are employed by fringe bodies for whom I am responsible - the Sports Council, Housing Corporation, Urban Development Corporations and New Towns - whose pay rates are in the main linked with those of local authority staff.

In the case of all these groups of staff it would be very difficult indeed to change the basis of their remuneration and I therefore agree that your proposal to maintain the existing pay links is the only practicable course.

I am copying this letter to the recipients of yours.

you see
[Handwritten signature]

MICHAEL HESELTINE

The Rt Hon Sir Geoffrey Howe QC MP

FROM:

THE RT. HON. LORD HAILSHAM OF ST. MARYLEBONE, C.H., F.R.S., D.C.L.



HOUSE OF LORDS,
SW1A 0PW

17th February, 1982

The Right Honourable
Sir Geoffrey Howe, QC MP
Chancellor of the Exchequer,
HM Treasury,
Parliament Street,
London, SW1.

Prime Minister

2 pps (2)

New point at X

MCS 18/2

My dear Geoffrey,

Megaw Committee: Government Evidence on Merit Pay

Thank you for sending me a copy of your letter of 2nd February to Janet Young, with the draft paper on merit pay for the Megaw Committee. I have also seen Peter Walker's letter of 10th February, and Janet Young's of 12th February. 159

When we considered performance related to pay early last year, I did not hide my doubts about the proposal; and in Cabinet we decided not to pursue it further. Nothing since then has lessened my misgivings. My view remains that the right reward for merit is promotion to a higher grade, and financial rewards of this kind are unlikely to provide significant motivation and may well cause damaging resentment among those who do not receive them; that easily applicable and objective criteria would be difficult to establish; that in consequence favouritism might be encouraged, and, under another government, even political preference; and that the scheme would place a heavy and invidious burden on permanent secretaries and their senior colleagues. For these reasons, I agree with Peter Walker that the paper which is submitted to the Megaw Committee should be cast in neutral terms. ||

I am sending copies of this letter to the Prime Minister, other members of Cabinet, Sir Robert Armstrong and Sir Derek Rayner.

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118 FEB 1982

From the Private Secretary



Chancellor of the Duchy of Lancaster

Management and Personnel Office
Whitehall London SW1A 2AZ
Telephone 01-273 4400
GTN 273

16 February 1982

P S Jenkins Esq
Treasury Chambers
Parliament Street
LONDON
SW1P 3AG

NBPM.

MS

174

Dear Peter,

EVIDENCE FOR MEGAW INQUIRY: LOCAL PAY

Thank you for sending me a copy of the Chancellor's paper on Local Pay with your letter of 8 February and of the further note of 11 February. Your earlier letter to Michael Scholar of 5 February was not copied to us and your letter of 8 February did not arrive until 10 February. So, as I forewarned your office last week, I am afraid we have gone past your deadline but now here are our comments.

The Chancellor of the Duchy is concerned that much of the discussion is in terms of the difficulties of applying local pay to the Service as a whole. Not all the problems apply with quite the same force for non-mobile grades who are recruited locally and cannot be moved beyond reasonable travelling distance of their homes. These grades form nearly half the Service, and it is here that competition arises with other local employers and where typists, messengers and data processors are much more ready to switch employers in search of better pay.

The paper does say that there is a stronger case on management grounds for local pay for more junior staff, but it does not spell out these grounds as fully as it might. Since the Government's initial evidence to the Inquiry referred quite specifically to the non-mobile grades the paper ought also to indicate where their problems might be different.

The thrust of a good deal of our work is towards greater responsibility at local level. The ability of local managers to match non-mobile pay to general local pay rates could be an important ingredient in the delegation of financial responsibility, and the Megaw Committee ought to consider whether the risks - which are undoubtedly very serious - outweigh potential advantages in the recruitment, management and wastage rates of non-mobiles. The Annex to this letter suggests how the main part of the paper might be strengthened to match its conclusions.

Copies of this letter go to the Private Secretaries to members of the Cabinet, to Sir Robert Armstrong and to Sir Derek Rayner.

Yours sincerely,
Jim Buckley
J BUCKLEY

LOCAL PAY

Replace para. 26 by

"There is a stronger case on management grounds for local pay for more junior staff, than for those above. Staff below Executive Officer (E0) and equivalent levels may not, under their conditions of service, be moved beyond reasonable travelling distance of the home established in connection with their original job; these are junior non-mobile grades. This means that some at least of the problems associated with local pay determination are lessened. There is, for instance, no problem of moving staff who are non-mobile across regional boundaries, and it is relatively easy to determine areas of local mobility within which non-mobile staff can be moved from office to office. Recognized travel-to-work areas already exist.

Staff at these junior levels tend to think of themselves as career typists, data processors, clerks and messengers. They may work for a variety of employers, and are thus likely to be influenced more by the current pay rates offered by employers within their home area and less by longer-term career prospects. Rates offered by other employers in each area are therefore more directly relevant in the case of more junior staff who are recruited locally direct to these grades. For such staff it might not be quite so difficult to discover what other employers are paying in similar grades, or for managers in different Departments who already cooperate on recruitment to get together to determine what rates they need to pay within centrally determined guidelines. Moreover, if local managers were responsible for all their expenditure within comprehensive budgets it might not be too difficult to employ fewer staff and more office machinery if local staff costs rose too far. Standards of output would not necessarily suffer. The Committee might therefore like to estimate how serious the difficulties would be in practice, and how far the risk of increased costs of administration would outweigh any potential savings."

2 Paragraph 29ii. should be expanded with an addition at the end as follows.

"On the other hand recognized 'travel-to-work' areas already exist, and most non-mobile staff will fall readily into one or other of these. It is unlikely that many will be asked to move to an office outside their own area."

1982 FEB 11

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Prime Minister

rus 16/2

HOME OFFICE

QUEEN ANNE'S GATE, LONDON SW1H 9AT

16 FEB 1982

Dear Robt

EVIDENCE TO MEGAW INQUIRY: LOCAL PAY

Thank you for copying to us your letter of 8th February to Barnaby Shaw. The Home Secretary is content for the paper on local pay to go to the Inquiry in its present form.

From the Home Office point of view, we doubt whether local pay will prove to be a very useful avenue to explore. However, we hope consideration of the subject may enable something to be done about the anomaly that staff posted from Central London buildings to our Outer London buildings (who in general, of course, will have no decrease in living expenses and may well have an increase in travelling expenses) lose their Inner London weighting. This is naturally a considerable impediment to movement of staff between Home Office departments, which is desirable in the interests of greater efficiency and career development. The problem is most evident in relation to interchange between the Immigration and Nationality Department at Croydon and other parts of Home Office headquarters. The paper canvasses the idea of an increased number of London zones, but in relation to the difficulties we experience it would be more logical to put mobile staff in all the London offices on a par.

We shall therefore be particularly interested to see the Inquiry's findings on Inner and Outer London weighting. More generally, however, your Department will already know from Ralph Shuffrey's letter of 22nd August 1980 to Gordon Burrett during earlier consideration of regional pay, that we find it very difficult to accept that any significant extension of current arrangements can possibly be cost-effective. We do not dispute the principle underlying the case for local pay, but the costs and difficulties seem a good deal more certain than the benefits. So far as the Home Office is concerned, any proposal to introduce local pay for mobile grades would have adverse consequences for the management of the Prison and Immigration Services in particular. Decentralised pay bargaining would inevitably divert local management from operational tasks to pay negotiation. The substantial administrative costs of any scheme would have to be weighed against savings, which would be difficult to quantify and might well prove illusory. We are trying to increase efficiency through simplification of working practices. Local pay seems likely to make more complex a pay system which it can be argued is already too complicated.

I am copying this letter to the recipients of yours.

C. J. Walters

C. J. WALTERS

P. S. Jenkins, Esq.



116 FEB 1982

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Civil Service

Prime Minister (2)

16/2

PRIME MINISTER

cc Mr Hoskyns
Mr Ingham

CIVIL SERVICE PAY NEGOTIATIONS

You will have seen that the unions reacted unfavourably to the pay offer made to them this morning. Mr Kendall, apparently considerably annoyed at the fact that - for a change - the Government side had managed to monopolise most of the press, described the offer as "ludicrous, inept, stupid and offensive".

I am told that the unions were initially amazed at what they were being offered, and adjourned the meeting. When they returned, they made it clear that they did not want any further negotiations, and wanted to go straight to arbitration. Peter Le Cheminant is trying to encourage them to a third meeting, possibly with Mr Heyhoe, but they may well refuse. No great harm will be done if they do, because our own commitment to genuine negotiations is clear.

It is too early to say how the offer has gone down with the staff; ~~but~~ I am told of 3 spontaneous walk-outs in DHSS local offices, but there has been no mass protest.

J. VEREKER

16 February 1982

Civil Service (m)

R M
Civil Service

Blind cc Mr Vereker

16 February, 1982

Megaw Committee -
Salaries in the Legal Civil Service

Thank you for your letter of 15 February with which you enclosed the draft evidence which you are proposing to submit to the Megaw Committee.

The Prime Minister is content that this evidence should now be submitted.

M. C. SCHOLAR

J Nursaw, Esq
Law Officer's Department

SR



Prime Minister ^{de JV} (2)
 Mrs 16/2
 DEPARTMENT OF HEALTH AND SOCIAL SECURITY
 ALEXANDER FLEMING HOUSE
 ELEPHANT AND CASTLE LONDON SE1 6BY
 TELEPHONE 01-407 5522 EXT

The Rt Hon Sir Geoffrey Howe QC MP
 Chancellor of the Exchequer
 Treasury Chambers
 Great George Street
 London S W 1

mf
 P-day 15 1982
 2 PPS
 Geo. Geoffrey

INQUIRY INTO CIVIL SERVICE PAY: GOVERNMENT EVIDENCE ON MERIT PAY

Thank you for sending me a copy of your letter of 2 February to Janet Young on this subject. I agree with your conclusions in the draft paper. Indeed, as you will know, my departmental memorandum of evidence to the Committee devoted a section (paragraphs 14-19) to discussing the arguments relating to a pay system geared to performance - both good and bad. Although any system of merit pay is bound to cause some degree of added complexity, we concluded that there was a clear balance of advantage in favour of it.

I am still firmly of this view, and therefore support the line you take in the draft paper. There will no doubt be difficulties in achieving realistic reporting standards on individuals, in reconciling the recognition of individual merit with cost factors, and in maintaining the team-work spirit which is so important in the Civil Service. Nevertheless, I think this is a road we should go down, if we are to turn the concept of performance-related pay into a reality.

I have no strong views between either range pay or the more flexible use of increments, but whichever scheme is adopted there ought to be scope for awarding special merit payments to staff who are already on the maximum of a pay scale, as we recommended in our departmental evidence to the Committee.

I have some reservations about the idea of bonuses. As we said in our own evidence, we do not want to influence the staff here to think of claimants to social security as units in a production line.

I am sending copies of this letter to the Prime Minister, other members of the Cabinet, Sir Robert Armstrong and Sir Derek Rayner.

Janet Young
 Norman Fowler

NORMAN FOWLER

16 FEB 1982





J. Nursaw

LEGAL SECRETARY.

Prime Minister

Content?
(It looks innocuous
to me).

LAW OFFICERS' DEPARTMENT
ROYAL COURTS OF JUSTICE
LONDON, WC2A 2LL

cc JV (1)

MS 15/2

15 February 1982

ms
ms

M C Scholar Esq
Private Secretary
10 Downing Street
LONDON S W 1

Dear Michael,

MEGAW COMMITTEE - SALARIES IN THE LEGAL
CIVIL SERVICE

As you will have seen from the
Chancellor of the Exchequer's minute to
the Attorney General of 10 February, he
is now content with the draft evidence
which we have proposed.

I enclose a copy of the final draft
and I should be grateful if you would
let me know whether the Prime Minister
is content that the evidence should now
be submitted.

Yours sincerely,
Jim Nursaw

MEGAW COMMITTEE - SALARIES IN THE LEGAL CIVIL SERVICE

As Attorney General and Lord Advocate, we are the Government's principal legal advisers in England and Wales and Scotland respectively and as such concerned with the quality and effectiveness of the legal services provided to Government Departments. These are for the most part provided by the 1,000 or so lawyers working inside the Civil Service, either in specialist legal departments such as Parliamentary Counsel's Office and the Treasury Solicitor's Department, or in the legal departments in Departments of State.

It is important that salaries and conditions of service should be such as to continue to attract and retain sufficient able lawyers to provide the Government with the various legal services it requires. From our experience we are well aware that lawyers of inadequate calibre can cause damage, both political and financial, out of all proportion to the cost of employing them. The Inquiry will not have time to examine the position of every different group of staff in the Service and to make detailed recommendations on their pay arrangements. Lawyers are only one group, though an important one, of the specialists employed in the Service but our experience is confined to that group and some comments on the pay arrangements for lawyers may, perhaps, helpfully illustrate some of the factors which need to be taken into account in fixing Civil Service pay rates for specialist groups.

As an employer of lawyers, the Civil Service has to compete with a profession which can offer considerable

prizes for those who remain in private practice. At the Bar large earnings are possible as a successful Junior or QC and there is the very real prospect of judicial office and an eventual pension on more favourable terms than those awarded to civil servants. As for solicitors, large earnings from a successful practice are not uncommon.

The Government has made clear its view that in future Civil Service pay needs to be based on a wider range of factors than in the past, including direct evidence about the Civil Service's recruitment and retention position in the market, as well as comparisons with representative outside rates of pay for staff of comparable quality. In determining the salaries of legal Civil Servants, regard should in our view be had to these factors not only at the ages and responsibility levels at which staff are recruited, but also at later stages in their career. It is necessary to give reasonably attractive prospects to those entering the service and to avoid the feeling on the part of those who have been successful in it that they are being unfairly treated. Applying the test of recruitment and retention will show how far the Service is offering adequate terms and conditions of service to meet its requirements.

At present, salaries in the legal Civil Service are, up to the grade of Assistant Solicitor, governed by a direct linkage with administrative grades. In the case of senior posts in the open structure they are members of the senior grade in question (with the exception of the Parliamentary draftsman grades). The compression of salary differentials generally in the Civil Service has had the consequence that the salaries of senior lawyers take little account of their increased responsibilities and are lower than those which can be earned outside. There is in present economic circumstances no great difficulty in recruiting and retaining lawyers of a reasonable quality suitable for many of the

/routine

routine posts in the legal Civil Service. There is, however, more difficulty in finding those of the high quality needed, particularly for advisory posts, to provide the senior legal advisers of the future. We are conscious of dissatisfaction among younger and abler lawyers who have reached a degree of seniority at a comparatively early age when they compare their position with that of their contemporaries outside the Service. We see this as a warning sign and think it important to guard against any long term detrimental effect on the Service. The need for vigilance in this applies with particular force to Parliamentary draftsmen all of whose work is exacting and requires lawyers of the highest qualities.

Therefore, while we recognise that interal relationships must be an important factor in determining lawyers' salaries and that a set linkage is appropriate where normal "across the board" increases are being granted, we suggest that the appropriate salaries for lawyers need to be kept under review in the light of the recruitment and retention position and, when this is done, regard should be had to the "market" factors applying to staff at all levels of responsibility, including comparisons with the earnings of lawyers in private practice doing work of comparable quality.

LAW OFFICERS' DEPARTMENT

LORD ADVOCATE'S DEPARTMENT

15 FEB 1982



[Faint handwritten mark]



Prime Minister (2)

GF SV

ms 15/2

QUEEN ANNE'S GATE LONDON SW1H 9AT

15 February 1982

Dear Jeffrey,

INQUIRY INTO CIVIL SERVICE PAY: GOVERNMENT EVIDENCE ON MERIT PAY

Thank you for sending me a copy of your letter of 2 February to Janet Young.

I have also seen a copy of Peter Walker's letter of 10 February and I strongly agree with the views which he expresses. I hope therefore that we can adhere to what I consider to be a thoroughly sensible Cabinet decision a year ago. If, however, you wish to submit a paper on the lines of the draft enclosed with your letter to the Megaw Committee, I hope we may have an opportunity to consider in Cabinet why we should revise our previous decision.

I am sending copies of this letter to the Prime Minister, other members of Cabinet and to Sir Robert Armstrong and Sir Derek Rayner.

My
letter.

The Rt. Hon. Sir Geoffrey Howe, QC. MP.



115 FEB 1982
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FILE cc. MOD
DHSS
EMP
LAD
LCD
CO

10 DOWNING STREET

bc: J. Vereker

From the Private Secretary

15 February, 1982

Evidence for the Megaw Inquiry:
Local Pay

Thank you for your letter of 5 February, with which you enclosed a paper for the Megaw Inquiry on the case for matching Civil Service pay more closely to local pay conditions.

The Prime Minister is content for the Chancellor to submit this paper to the Inquiry.

I am sending a copy of this letter to the Private Secretaries to the Secretaries of State for Defence, Social Services, and Employment, the Lord Advocate, the Attorney General and to Sir Robert Armstrong.

M. C. SCHOLAR

Peter Jenkins, Esq.,
H.M. Treasury

MANAGEMENT IN CONFIDENCE

A handwritten signature, possibly 'Vb', written in dark ink in the bottom right corner of the page.



Prime Minister (2)

Mus 15/2

Jc JV

Caxton House Tothill Street London SW1H 9NA F

Telephone Direct Line 01-213 6400 GTN 213

Switchboard 01-213 3000

Rt Hon Geoffrey Howe QC MP
 Chancellor of the Exchequer
 Treasury
 Great George Street
 LONDON SW1

15 February 1982

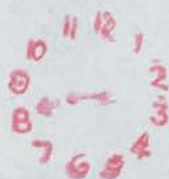
INQUIRY INTO CIVIL SERVICE PAY: GOVERNMENT EVIDENCE ON MERIT PAY

You sent me a copy of your letter of 2 February to Janet Young about this, and I have seen copies of her reply and of Peter Walker's.

The attractions of linking pay to performance are obvious. But as Janet Young points out, there are real difficulties about doing this in the Civil Service. I have no doubt that there will be plenty of talk about the difficulties without any contribution from us and it is important that Megaw should take these into consideration. Nonetheless it might help our case if our paper for Megaw said a little more of the problems to be resolved as well as the advantages to be gained to make it plain that we are aware of them.

I am sending copies of this letter to the recipients of yours.

15 FEB 1982



1. ~~Copied~~ L N Verduin
2. File. 1/11/82

4

Civil Service



DEPARTMENT OF HEALTH AND SOCIAL SECURITY
ALEXANDER FLEMING HOUSE
ELEPHANT AND CASTLE LONDON SE1 6BY
TELEPHONE 01-407 5522 EXT

John Wiggins Esq
Private Secretary to
Rt Hon Sir Geoffrey Howe QC MP
Chancellor of the Exchequer
HM Treasury
Treasury Chambers
Gt George Street
SW1

15 February 1982

Dear John

CIVIL SERVICE PAY NEGOTIATIONS

Peter le Cheminant asked for any comments, including a "nil return", to reach you as early as possible this morning on MISC 66(82)10, which was circulated late on Friday evening.

We have no comments on the documents attached to the paper, apart from some typing errors of which we have already informed you at official level. We have made special arrangements to inform all staff of the details of the offer tomorrow afternoon, by telex to our Central and Regional Offices and by telephone to the managers of our 550 local units. Provided that we receive the go-ahead by 1 pm, there will just be time to transmit the message and enable our managers to get it typed and distributed to all their staff that afternoon. Confirmatory copies of the text and of the explanatory note for managers will be sent by Datapost to arrive the next morning. These arrangements will cost about £10,000 but will ensure that staff know of the offer from the Government considerably earlier than on any previous occasion and before they hear it from the Press. If the go-ahead is delayed much beyond 1 pm, however, there is no way of informing most of our 97,000 staff before Wednesday morning.

I am copying this reply to Private Secretaries to the PM, Mr Hayhoe, Lady Young, Mr Nott, Mr Tebbit.

Yours ever,

David

DAVID CLARK
Private Secretary



DEPARTMENT OF HEALTH AND SOCIAL SECURITY
ALEXANDER FLEMING HOUSE
ELEPHANT AND CASTLE LONDON SE1 6BY
TELEPHONE 01-407 5522 EXT

P S Jenkins Esq
Private Secretary to the Chancellor of the Exchequer
Treasury Chambers
Great George Street
London SW1

15 February 1982

Dear Peter

EVIDENCE FOR THE MEGAW INQUIRY: LOCAL PAY

MS

Thank you for your copy letter of 5 February on the subject and the draft evidence.

The arguments deployed in the draft are very similar in many respects to those my Secretary of State included in our departmental evidence to the Committee. The paper does not come down firmly against a local pay system as we did, but this is of course understandable, and we agree that the paper should be submitted to the Committee.

Copies of this letter go to recipients of yours.

Yours ever,

David

D J CLARK



SK SV
 Prime Minister
 (2)
 MS 15/2

Treasury Chambers, Parliament Street, SW1P 3AG
 01-233 3000

12 February 1982

David Clark Esq.,
 Private Secretary to the Secretary of
 State for Social Services,
 Department of Health and Social Security

Dear David,

INQUIRY INTO CIVIL SERVICE PAY : EVIDENCE ON THE
 NHS PAY SYSTEM

The Chancellor of the Exchequer has asked me to comment on the draft enclosed with your letter of 21 January to Michael Scholar.

As the Chancellor has himself observed to Mr. Fowler, he feels that the draft lays altogether too much emphasis on comparability and, moreover, a particularly objectionable form of comparability, since it would not be based on a direct reference to the market. He also feels that much of the material in paragraphs 15-18 (such as the apparent condoning of "grade drift") could be embarrassing.

The Chancellor is grateful for the account that has been taken of comments by Treasury officials, and realises that there could, for example, be difficulties in the Government's making statements about the future of NHS pay negotiations which might not be welcome to NHS management. Nevertheless, he considers that a fair amount of revision is essential. In his view, the right course is to make the evidence as factual as possible, and to confine any comments to those which are strictly germane to the task of the Megaw Committee: while it is right that the Committee should be aware in general terms of the possible implications for other public services of what they may recommend for the Civil Service, it is no part of their remit to pronounce on the merits or otherwise of the NHS pay negotiating system; and the extent to which they will be able to take account of the potential effects on other services of their recommendations will be very limited.

The Chancellor therefore suggests the following changes:-

/ (a)



- (a) The Chancellor thinks it desirable to set the evidence in context and, while recognising that there have been pay links between Civil Service and NHS grades, to play down their importance as a guide to future policy. The appendix to this letter sets out a passage which might replace the existing paragraph 1.
- (b) Paragraphs 7 and 8 seem rather vague in their references to "conventions" and "understandings". Would it be possible to be more specific?
- (c) The final sentence of paragraph 9 implies that any improvement in standards of health care must be achieved by increasing the numbers of staff rather than by greater efficiency. The Chancellor suggests that it should be deleted.
- (c) The final sentence of paragraph 9 implies that any improvement in standards of health care must be achieved by increasing the numbers of staff rather than by greater efficiency. The Chancellor suggests that it should be deleted.
- (d) More generally, paragraphs 9-14 should be somewhat recast so as to be essentially historical in nature (for example, the speculation at the end of paragraph 10(ii) seems unnecessary; the final sentence of paragraph 10 should be in terms such as "the tendency in the past has been"; and paragraph 13 would be better in the perfect than the present tense). It would also be better to head this section, say, "basis of negotiations" than "pay principles": similarly, in the second line of paragraph 10 "seeks to apply pay principles" should be replaced by "has followed practices". It would be better to omit the final sentence of paragraph 10(i).
- (e) In the third sentence of paragraph 11, replace "the validity of the link rests on" by "the link has been based on". The final sentence of the paragraph seems rather vague.
- (f) In the first line of paragraph 12 replace "traditionally" by "in the past".
- (g) Omit paragraphs 15-18.
- (h) Shorten paragraphs 20-22 on the lines of the passage in the appendix to this letter.

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I am sending copies of this letter to the recipients of yours.

Yours ever,

Peter

P.S. JENKINS

APPENDIX

Suggested introductory paragraphs

Although the day-to-day running of the National Health Service is a matter for health authorities, the Government is ultimately responsible for it, and it is financed wholly from the Exchequer. In these respects, there is a parallel with the Civil Service and the general principles to which the Government drew attention in its initial evidence on future pay arrangements for the Civil Service - the need to give full weight to market factors and considerations of affordability - apply to it equally. Staff costs, like other costs, must be managed efficiently, or the public will receive a standard of health care which is less than could be bought by the money provided by the taxpayer. It follows that pay settlements in the NHS must be justified by reference to the needs of the NHS, and not to the circumstances of other public services or other parts of the economy.

2. Nevertheless, there are common features about the current systems of pay determination for the Civil Service and for the NHS; and some major groups of NHS staff are engaged on work which is similar to that of analogous groups in the Civil Service, to whom their pay has been linked in the past. The Department welcomes the opportunity to outline these matters for the information of the Inquiry into Civil Service pay.

SUGGESTED REDRAFT OF PARAGRAPHS 20-22The Inquiry into Civil Service Pay

The Government's memorandum on future pay arrangements for the non-industrial Home Civil Service, already submitted to the Committee, draws attention to the need to ensure that pay rates adequately reflect the market and the availability of finance.

As noted in paragraph 1 above, these considerations apply equally to the NHS; and the recommendations of the Committee are therefore likely to have important implications for the NHS.

The majority of NHS staff are employed in grades which have no links with the Civil Service. What will be relevant in their case is the general principles underlying the Committee's recommendations.

There may also be particular implications for those grades whose pay has been linked with that of grades in the Civil Service. Hitherto, the operation of these links has taken no specific account of market factors. If the future Civil

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Service pay system takes account of market factors specific to the Civil Service, it would be difficult to justify linking NHS staff to the resulting salaries unless these could be adjusted to take account of relevant NHS market factors. This could require a substantial increase, compared with the past, in the amount of information collected for NHS pay negotiations; the secretariat to the Management Sides of the NHS Whitley Councils has hitherto had no need to provide a data-gathering service such as that previously provided by the Civil Service Pay Research Unit.

In short, it would be helpful to the NHS if any new system of pay determination for the Civil Service were based on principles capable of being applied to the NHS, which recognised the importance of market factors and "affordability" as reflected in cash limits, but within these constraints allowed an appropriate role to pay comparisons. Within that, for those NHS grades doing work closely similar to that of Civil Service grades, it would be helpful from a purely practical point of view if the new system allowed a substantial degree of "read across" and did not entail an excessive burden of additional data collection. These considerations must, however, be secondary to the need to conform to the principles mentioned at the start of this paragraph.

15 FEB 1982





Prime Minister /c SV (2)
 Manager *Mus 15/2* Personal Office
 Whitehall London SW1A 2AZ
 Telephone 01-273 4400
 GTN 273

Chancellor of the Duchy of Lancaster

From the Private Secretary

12 February 1982

P S Jenkins Esq
 Private Secretary to the Chancellor
 of the Exchequer
 Treasury Chambers
 Parliament Street
 LONDON SW1P 3AG

MS

Dear Peter,

EVIDENCE FOR THE MEGAW INQUIRY

Thank you for your letter of 21 January about the paper on 'Discipline and Dismissals in the Non-Industrial Civil Service' for the Megaw Inquiry. I now attach a copy of the draft letter the Chancellor of the Duchy proposes to send to the Inquiry together with a copy of the final paper.

We have added a paragraph to the end of the paper, outlining some statistics on appeals, in order to give a 'feel' for how these procedures work in practice. There are also one or two small changes to the original draft paper which seek to clarify or up-date some of the points.

Lady Young agrees with the Chancellor that it would be useful to take a sample in one department to see how long, on average, it actually takes to go through the procedures. She wondered whether the Chancellor would be prepared to ask one of his departments to carry out such a survey. We know that the Inland Revenue dismiss quite a number of staff each year and they might therefore provide a representative sample.

Since we are now into 1982 Lady Young thinks it will be helpful if we can give the Inquiry an indication of the dismissal figures for 1981. We propose to include the latest estimates in the covering letter, rather than the tables in the paper, since they are provisional. Before these figures are sent to the Inquiry we would, however, be grateful for confirmation that the Chancellor of the Exchequer is content with this approach. You may also wish to take account of these new figures in the paper the Treasury is preparing on comparative job security.

I am sending copies of this letter to the Private Secretaries to the Prime Minister, the Secretaries of State for Defence, Social Services and Employment, the Foreign Secretary, the Home Secretary, the Attorney General, the Lord Advocate and the Secretary to the Cabinet.

Yours sincerely,
Jim Buckley

J BUCKLEY

DRAFT LETTER TO:

D P Laughrin Esq
Inquiry into Civil Service Pay
22 Kingsway
London WC2B 6JY

INQUIRY INTO CIVIL SERVICE PAY: DISMISSALS

In your letter to Geoffrey Morgan of 13 August you asked for a note setting out the procedures for effecting dismissals in the Home Civil Service, and comparing these with those used in the Diplomatic Service and outside the Service. Following the reorganisation of the central departments responsibility for those procedures now rests with the Management and Personnel Office. The Chancellor of the Duchy of Lancaster has therefore asked me to send you the attached paper which has been prepared by the MPO, in consultation with other government departments, which covers the points raised by Sir John Megaw.

2. The paper covers all forms of dismissal from the Service. As you will see, a clear distinction is drawn between dismissals resulting from disciplinary offences and those which follow from poor performance and other causes. It is not possible to give a single figure for dismissals involving poor performance since staff who leave on medical, structural or redundancy grounds, as well as those who leave under the inefficiency and limited efficiency procedures, may be performing badly. However, the figures provided should give a fairly comprehensive picture. I have also included copies of the relevant sections of Estacode, the Civil Service Pay and Conditions of Service Code, the Establishment Officers Guide, and the draft Code and Guide sections on discipline which are under discussion with the unions.

3. In the light of Sir John's query about procedures in the Diplomatic Service, we have consulted the Foreign Office and can confirm that their procedures are little different from those in the Civil Service.

Our information on the procedures adopted by organisations outside the Service is very limited but we would not expect ours to be much different from those adopted by other major employers.

4. I ought to mention that as the proposed reductions in Civil Service manpower are achieved it is likely that there may be a considerable change in the rates of involuntary wastage shown in Annex 2 to the paper. We do not, as yet, have any reliable figures for 1981 but on the basis of available records have been able to estimate the likely levels; these are shown in the table below:

Non-Industrial Home Civil Service - Estimates of Involuntary Wastage in 1981

<u>Cause of Leaving</u>	<u>Numbers</u>	<u>Wastage rate per 1,000 staff</u>
Disciplinary Dismissals	140	0.3
Inefficiency	85	0.2
Limited Efficiency	300	0.6
Probation termination	370	0.7
Redundancy	730	1.4
Structural	300	0.6
Ill-health	2050	3.8
Special Early Retirement	135	0.2
All above causes	<u>3600</u>	<u>7.8</u>

5. As you can see, there appears to have been a fairly considerable increase in the number of people leaving on grounds of limited efficiency, structure and redundancy. This is perhaps to be expected given that the criteria for uncontested retirement on limited efficiency and structural grounds have recently been broadened (see paragraph 11 of the attached paper) and that the proposed reductions are now really beginning to take effect. Indeed we expect that

this upward trend will continue over the next few years. Similarly the fall in the number of probation terminations is also perhaps to be expected as the number of recruits falls. When more accurate figures are available we will see that those are given to the Inquiry.

6. This paper is intended to give a straightforward statement of the existing rules and the way they are applied. It is not intended to cover the queries on comparative job security that the Committee has raised. A separate paper on these aspects ^{is} being submitted by the Treasury.

7. Similarly it does not cover the specific request from the Committee for more information about the case of Dr Clift which was discussed in an article in the 'Economist' on 12 September. The Home Office will be providing detailed information on this, since Dr Clift is one of their employees.

DISCIPLINE AND DISMISSAL IN THE NON-INDUSTRIAL CIVIL SERVICE

The Committee has asked for a note setting out the procedures for effecting dismissals in the Home Civil Service, with the available statistics, and comparing these with those used in the Diplomatic Service and elsewhere.

2. Annexes 1 and 2 set out the figures and rates for the number of non-industrial civil servants who have left the Service involuntarily between 1976 and 1980 inclusive in each of the relevant categories. These categories taken together cover what might broadly be called 'dismissals' (as distinct from voluntary wastage). In addition a significant number of those aged between 60 and 65 have recently been required to retire against their will. Although the normal age of retirement in the civil service is 60, the policy in most areas, for reasons both of economy and of efficiency, has been to permit the maximum retention of staff between these ages provided they are fit and efficient and there is a job for them to do. As a result of reductions in the civil service manpower departments have had to retire many people who would normally have been retained. While this is technically classed as a "pre-redundancy measure", there are contexts in which many, particularly the men aged under 65, could be considered as having been dismissed or made redundant. Precise figures for such retirements are not available, but the number is rising and thought to be of the order of a few thousand a year.

3. Compensation payments are given, under the terms of the Principal Civil Service Pension Scheme, to all the categories listed in the Annexes apart from disciplinary dismissals and failure of probation.

Procedures

4. The procedures for dismissal, whether on grounds of misconduct, capability or redundancy, are designed to attempt to ensure that any dismissal is fair in the individual case, and a civil servant has the right to claim compensation for unfair dismissal before

an industrial tribunal, provided he has been employed in the Civil Service for over a year. Relatively few appeals in fact go to industrial tribunals, as most appeals are settled by the Civil Service Appeal Board.

5. Although central guidance and procedures are laid down for dealing with dismissals, the practice in departments may vary slightly as they may have to deal with particular needs and circumstances.

a. Discipline

6. The procedures for dealing with disciplinary offences vary from those for premature retirement as they have to provide for a variety of penalties to be imposed ranging from a written reprimand to dismissal. They seek to ensure that an officer is given every opportunity to state his case and that dismissal is recommended only when it can be justified. The central guidance covering disciplinary procedures is laid down in Estacode (new guidance, now in draft form, is currently under consideration with the civil service unions - copies are being made available to the Committee).

b. Probationary Dismissals

7. All non-industrial civil servants are required to complete successfully a probationary period before their appointment is confirmed. If they fail to do so they are dismissed.

c. Compulsory Premature Retirement

8. The procedures for compulsory premature retirement on limited efficiency, structural, inefficiency, medical and redundancy grounds are outlined in the Civil Service Pay and Conditions of Service Code and the Establishment Officers' Guide (copies of the relevant paragraphs are being made available to the Committee). In all cases staff are given as much informal notice as possible, and except in medical cases, all established staff are given 6 months formal notice. Only staff in mobile grades (Executive Officer and equivalent level and above) may be prematurely retired on grounds of limited efficiency or structure and only staff at Senior Principal or equivalent level and above can be retired compulsorily on structural grounds.

i. Limited Efficiency and Inefficiency Retirements

9. The main stages in prematurely retiring a civil servant on limited efficiency or inefficiency grounds are:

1. informal oral warning(s);
2. formal written warning;
3. opportunities given for the officer to improve;
4. retirement Board;
5. notice of dismissal;
6. right of appeal.

If they are followed in full, and provided there are no complications, these stages should not take more than a year from oral warning to notice of dismissal. Where cases are uncontested the procedures can be shortened by mutual agreement so that, providing a department is satisfied there is evidence of inefficiency, or limited efficiency and that improvement is unlikely, the trial period can be dispensed with and shorter notice than is strictly necessary can be mutually agreed.

10. In general, any difficulties in shedding staff whose performance is not adequate lie not in the procedures used but in ensuring that the criteria for the various categories of compulsory retirement on efficiency or limited efficiency are met. The contents of annual reports are crucial, and there may be a reluctance among some reporting officers to provide the overall grading which poor performances justify. A working party is currently looking into the question of reporting standards.

11. All premature retirements may be contested or otherwise, but since 1 April 1981 the criteria for uncontested retirement on limited efficiency and structural grounds have been broadened in order to assist departments in improving their efficiency. Under these arrangements over 400 retirements have been effected in the past 10 months.

ii. Redundancy

12. A non-industrial civil servant is declared redundant in a formal sense only when, if he is in a mobile grade there is

no suitable post for him in any department anywhere in the Civil Service, or, if he is in a non-mobile grade, there is no suitable post within daily travelling distance. At a time of retrenchment and reorganisation, the procedures and categories under which weaker staff may lose their jobs may be technically ill-health, limited efficiency and structure, especially if they do not wish to contest those grounds. Also, to meet the responsibilities of the government's public position as an employer (including economy and good employment practices) a wide range of pre-redundancy procedures, including redeployment to other departments, have been agreed to help avoid formal redundancy. As a result of these measures many staff may be required to leave the Civil Service for reasons following from a reduction in the workload or the money available to do it. In particular, departments may change their retirement practices in order to retire compulsorily more staff over age 60. Only when all the pre-redundancy measures have been exhausted is a formal redundancy declared, and the procedures for selecting the staff to be made redundant brought into operation.

The Diplomatic Service

13. Annexes 3 and 4 give the figures and rates for the number of unwilling leavers from the Diplomatic Service between 1976 and 1980 (apart from probationary dismissals which are not readily available but would be in single figures each year). The categories for dismissals are the same as in the Home Civil Service and the procedures used are similar. The overall rate of dismissals is also similar, except in the use made of 'redundancy' category (where the diplomat is perhaps more likely to have to leave the government's service).

Position outside the Civil Service

14. The Government does not have sufficient information about dismissal procedures in other public or private sector bodies to judge to what extent procedures described in this paper are similar to those outside. To the extent that the stages outlined in paragraph 9 above are necessary or desirable for ensuring that dismissals are judged to be fair by industrial tribunals they are

however likely to be in line with those of other major employers. Nor does the Government have comprehensive and reliable information about involuntary wastage rates in other organisations.

15. It may help to give some 'feel' of the practical use and effect of these procedures to add that in eight large departments with approximately 450,000 non-industrial staff (84% of the whole non-industrial civil service) at 1 October 1981 the number of appealable dismissals since October 1977 was of the order of 5,500, of these 304 (5½%) in fact appealed, 213 to the CSAB only, 77 to an industrial tribunal only, and 14 to both; the CSAB found in favour of some 27% of those who appealed to it; and industrial tribunals also found in favour of some 27% of those who appealed to them from all fields of employment.

Non-Industrial Home Civil Service Involuntary Wastage 1976 to 1980

Cause of leaving	1976	1977	1978	1979	1980
Disciplinary Dismissals	188	193	153	132	115
Inefficiency	82	112	79	79	66
Limited Efficiency	70	64	51	38	59
Probation termination	671	501	518	448	510
Redundancy	292	642	484	105	246
Structural	143	387	407	116	34
Ill-health	2081	2462	2389	2442	2386
Special Early Retirement	-	19	10	-	612
All above causes	3527	4380	4091	3360	4028

Source: PRISM

Non-industrial Home Civil Service Involuntary Wastage 1976 to 1980
Wastage rates per 1,000 staff

Cause of leaving	1976	1977	1978	1979	1980
Disciplinary Dismissals	0.3	0.3	0.3	0.2	0.2
Inefficiency	0.1	0.2	0.1	0.1	0.1
Limited Efficiency	0.1	0.1	0.1	0.1	0.1
Probation termination	1.2	0.9	0.9	0.8	0.9
Redundancy	0.5	1.1	0.9	0.2	0.4
Structual	0.3	0.7	0.7	0.2	0.1
Ill-health	3.7	4.3	4.2	4.4	4.3
Special Early Retirement	-	-	-	-	1.1
All above causes	6.2	7.7	7.2	6.0	7.3

Source: PRISM
Part-timers are
counted as whole units

Rates have been calculated as the number of leavers in a particular year divided by the average staff in post for the year multiplied by 1,000.

Voluntary wastage from the Diplomatic Service

Cause of leaving	1976	1977	1978	1979	1980
Medical	13	4	15	14	14
Structural/ Redundancy	33	16	25	15	96
Limited Efficiency	2	2	-	3	2
Inefficiency	-	-	-	-	-
*Disciplinary	2	-	-	-	1
TOTAL	50	22	40	32	113

*There were, in addition, about half a dozen potential disciplinary cases where the individual resigned before disciplinary proceedings could be taken, or absented themselves from duty and were deemed to have resigned.

Involuntary Wastage from the Diplomatic Service
Wastage Rates per 1,000 staff

Cause of leaving	1976	1977	1978	1979	1980
Medical	2.4	0.8	2.9	2.8	2.9
Structural/Redundancy	6.2	3.0	4.9	3.0	19.8
Limited Efficiency	0.4	0.4	-	0.6	0.4
Inefficiency	-	-	-	-	-
*Disciplinary	0.4	-	-	-	0.2
TOTAL	9.4	4.2	7.8	6.4	23.3

Note Rates have been calculated as the number of leavers in a particular year divided by the average staff in post for the year multiplied by 1,000.

15 FEB '62



Management and Personnel Office

Whitehall London SW1A 2A7

Telephone 01-273 4400
GTN 273

3PPS

Chancellor of the Duchy of Lancaster

12 February 1982

The Rt Hon Sir Geoffrey Howe, QC, MP
Chancellor of the Exchequer
HM Treasury
Parliament Street
LONDON SW1P 3AG

Dear Geoffrey,

Thank you for your letter of 2 February inviting comments on the draft paper on merit pay for the Megaw Inquiry.

The idea of linking pay to performance is certainly attractive, and we should clearly ask Megaw to consider it seriously. But the Cabinet came down against a scheme for merit pay a year ago, and I do not think that your draft deals adequately with the difficulties to which solutions will need to be found, if a workable scheme is to emerge from the Megaw Committee, as I would hope it could.

The difficulties I think we ought to face squarely in the paper are:-

- (i) In the private sector there can be a clear link between merit pay and contribution to profit, which provides an element of objective assessment. Without the possibility of any such link in the Civil Service we should have to rely on subjective assessment. However we improve the reporting system, reports can in the end be based only on subjective judgments and individual experience of reporting officers. These can vary so widely that there would have to be some centralised assessment and decision-taking machinery - and probably a system of review for disputed cases. There are significant cost implications here. We should want to be able to satisfy ourselves that gains in efficiency would counterbalance the costs.
- (ii) There is a potential conflict between motivation and the 'nil cost' requirement. If merit awards were to be available in sufficient size for enough people to produce results in terms of motivation, the "nil cost" requirement could entail a significant reduction of basic scales which could lead to disillusionment and discontent in the Service, and problems of recruitment and retention. One way of diminishing this would be to go for a system of bonuses rather than extra increments; but the amounts would need to be substantial if the incentive was to be effective.

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- (iii) The Committee will need to keep an eye on possible effects on superannuation costs. If merit pay was used to enhance salaries in the final years of service, that could push up the pension bill.
- (iv) The paper could say more than it does about the scope for recognising good performance and penalising inadequate performance by other management methods: tightening up reporting standards, stiffening the requirements to be met during the probationary period which follows promotion, the possibilities for downgrading or withholding increments, the scope for accelerated promotion on the one hand and premature retirement on the other.

I should like our officials to get together to produce a revised version of the paper which would give the Committee a more balanced view of the problems that have to be resolved as well as the advantages to be gained in introducing a merit pay system in the Civil Service, so that we can look forward to proposals that provide the basis of a workable and defensible scheme.

I am sending copies of this letter to the Prime Minister, to all members of the Cabinet, Sir Robert Armstrong and Sir Derek Rayner.

Yours sincerely
Baroness Young

BARONESS YOUNG



M 2 FEB 1982



6 pm
SCOTTISH OFFICE
WHITEHALL, LONDON SW1A 2AU

Ce JV

The Rt Hon Sir Geoffrey Howe QC MP
Chancellor of the Exchequer
HM Treasury
Parliament Street
LONDON
SW1P 3HE

12 February 1982

Dear Chancellor,

INQUIRY INTO CIVIL SERVICE PAY: GOVERNMENT EVIDENCE ON MERIT PAY

Thank you for copying to me your letter of 2 February to Janet Young enclosing a draft of the paper outlining the Government's views on merit pay which you propose should now go to the Megaw Committee. I have seen Peter Walker's letter and I agree with it. I particularly want to underline the difficulties which would require to be overcome to ensure that such a system would gain the support and confidence of staff.

Paragraphs 14(c) and (d) of the draft paper, for instance, refer to consistency of standards and the manpower involved in achieving this and in controlling pay costs. If a system which demonstrates adequate consistency of standards of performance rating within and among departments cannot be devised, line managers may simply apply ratings which will ensure that increments are not withheld or withdrawn. This will be particularly liable to happen if the CCSU oppose the system. I believe that in such a situation, machinery to ensure the efficient operation of a performance-based merit pay system would have to be both more elaborate and expensive than is suggested in the paper - particularly in a department like the Scottish Office where the range of staff - by grade and class - is so wide.

I am copying this letter to the recipients of yours.

Yours sincerely
A. Walker

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

12 FEB 1963

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CONFIDENTIAL



CSU
Civil Unit
2 PPS
NR PM
MCC 12/2

Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

12 February 1982

The Rt. Hon. Sir Keith Joseph Bt MP
Secretary of State for Education and
Science

In Unit

CIVIL SERVICE "SINGLE OUTSIDE ANALOGUE" GRADES

Thank you for your letter of 2 February. I accept that we need to keep under review the wider impact of pay settlements for particular groups when they are passed on to staff in non-departmental bodies whose pay is linked to them under "single outside analogue" arrangements. But I hope that it will be possible for costs to be contained within existing cash provision for these bodies just as in the case of departmental cash limits. We shall have to examine at the time any particular problem which may arise on this score.

I am copying this letter to the other recipients of yours.

GEOFFREY HOWE



12 F
1 2 3 4 5 6 7 8 9 10 11 12
A circular red stamp with numbers 1 through 12 arranged in a circle, with a central mark. To the left of the stamp, the text "12 F" is printed vertically. There are some faint, illegible markings above and to the right of the stamp.

Told P Jenkins
no letter.

MCS.



P.A.

(1)

10 DOWNING STREET

Prime Minister

The work being done by
officials on index-linked pensions
in drawing towards its conclusion
- with detailed proposals for bringing
contributions into line with costs.

The Chancellor is considering
whether to accelerate all this,
with a view to including
an announcement in the Budget,
and has asked me whether
this might appeal to you.

[OVER

Would you like further details
before expressing a view?

RLS 12/2

Yes - more details.

But I don't think
we can give
sufficient consideration
to this matter before the
Budget. Any proposed
conclusion will have to
be agreed before being
finalised. no

copy to Mr. Necker.

I.E.



SECRET AND PERSONAL
MANAGEMENT IN CONFIDENCE

Prime Minister.
Would you like to have
a meeting to discuss the
question's summarised in paragraph
9 of Sir Peter Amory's minute?

Ref. A07470

PRIME MINISTER

Yes

file
12.11.82

Lessons From The 1981 Civil Service Dispute

Before Christmas you asked that an inter-departmental group of officials should study the lessons of the 1981 pay dispute in the non-industrial Civil Service. The Official Group on Lessons from the Civil Service Dispute (MISC 65) was set up under Cabinet Office chairmanship and its report is now attached.

2. I annex immediately below this minute Part 7 of ^{inside front cover} the report, which summarises the conclusions and recommendations. The full report consists of a full statement of the arguments supporting the conclusions and recommendations. It would be a sort of bible if we had to face a dispute, but I do not think you need read it all now, though if you have time you may find it interesting to read Parts 1-3, which are all fairly short, since they contain some food for thought about the general nature of the industrial relations problem in the Civil Service and about the ways in which morale and communications might be improved.

3. One point which emerges strongly from the report is how much the Government will depend in any future dispute on retaining the loyalty of middle managers. There has undoubtedly been some sense of alienation from the Government as employer at middle management levels over the past year or so, and this has potentially serious implications. During the 1981 dispute the efforts of some middle managers and some other key staff helped to contain the cost to the Government - for example a small number of key staff in the Revenue Departments prevented the temporary loss of revenue from being £12 billion rather than £6 billion and the extra interest cost to the Government from being £1 billion rather than £1½ billion. We should need to rely on similar cooperation in the future. The efforts of middle managers are crucial to most departmental contingency plans and to the successful application of many of the sanctions against those who take industrial action. Middle managers also have a potentially important role in

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putting across to subordinate staff the reasoned arguments in support of the Government's position in pay negotiations.

4. An important lesson is therefore that in all our dealings with the Civil Service, both in this year's pay negotiations and on non-pay issues, the Government will need to do all it can to improve the morale and strengthen the loyalty of its employees, particularly at middle management levels.

5. By far the largest section of the report is that (Part 5) which deals with management responses to industrial action. It reflects a very full examination and discussion of about a score of possible options which might be open to the Government to deter industrial action before it occurs, to counter it when it is in progress, or to help bring it to an end.

6. It emerges from this analysis that the Government now has in Temporary Relief from Duty (TRD) a weapon well developed and refined in the light of experience in 1981, for use when staff are not working normally or as directed. But it has some limitations. One limitation, the practical difficulty of applying it when local managers are unlikely to cooperate, is to be further studied in the light of the report so that departments can share their experience in overcoming the operational problems. The other limitation is however more fundamental. TRD cannot be used against staff who are prepared to work normally and as directed. It cannot therefore be used to counter the unions' tactic, skilfully exploited in 1981, of imposing considerable costs on the Government at modest cost to themselves by selective strike action confined to a few carefully chosen groups of staff.

7. MISC 65 therefore gave much attention to ways of dealing with this problem. One option, which was considered last year, is to legislate to permit the lay-off without pay of staff who are without work as a result of the industrial action

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of others, and draft legislation was prepared on a contingency basis. The possibility of taking such powers in respect of white collar employees generally was considered in the context of the Employment Bill and may arise again during the Bill's passage through Parliament. MISC 65 considered the possibility of legislation confined solely to the Civil Service. This would however be a very radical and a very provocative (because discriminatory) step, and the advantages and disadvantages would need to be weighed very carefully, as the report indicates. An even more radical step would be to take powers confined to the Civil Service to suspend staff without pay even when they were genuinely willing to work normally and their work was not affected by the industrial action of others.

Such measures would undoubtedly provide the Government with the means of going on to the offensive against the Civil Service unions to a much greater extent than is possible at present. But there are dangers as well as possible benefits, and the balance of advantage would need to be assessed carefully at the time.

8. In addition MISC 65 considered a whole range of other possible management responses and made specific recommendations in certain areas, for example union "check-off" facilities, the taxation of strike pay, management ballots, and clarifying the obligations of managers in relation to industrial action.

9. You will probably want to discuss the report with the Ministers mainly concerned with Civil Service pay negotiations. The discussion might be concentrated on the following points:

- i. the need for a strategy based on the twin goals of strengthening morale and loyalty, as well as being resolute and resourceful in withstanding industrial action;
- ii. the implications of this strategy for:
 - a. the handling of issues affecting Civil Service morale in the longer term;
 - b. communications in negotiations and during a dispute;
- iii. the proposals in Part 4 on organisation during a dispute;

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- iv. the specific conclusions and recommendations about management responses to industrial action (a. - q. in 5.77 and 7.6) and particularly the proposals for further action on:
 - a. discontinuance of "check-off" facilities;
 - b. taxation of strike pay;
 - c. cost and feasibility of management ballots;
 - d. clarifying the obligations of managers;

- v. the arrangements for reviewing contingency plans in Part 6 of the report.

10. I am sending copies of this minute and of the report to the Chancellor of the Exchequer, Secretary of State for Defence, Secretary of State for Social Services, Chancellor of the Duchy of Lancaster, Secretary of State for Employment, Attorney General, Minister of State, Treasury (Mr Hayhoe) and Mr Ibbs.

PARIS

REA

ROBERT ARMSTRONG

11th February 1982

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MANAGEMENT IN CONFIDENCE

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PART 7: SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

7.1 The Report's conclusions and recommendations are summarised in the following paragraphs.

Origins, nature and outcome of the dispute

7.2 Part 1 of the report describes briefly the origins, nature and outcome of the dispute. This brings out the following main points -

a. For many staff, particularly in the middle and higher grades, the dispute was less about the level of pay increase in 1981 than about the suspension and termination of the Civil Service Pay Agreements and the fact that the Government did not feel able to offer any specific assurances about Civil Service pay arrangements in the longer term.

b. Although the industrial action lasted for 22 weeks, the financial cost of the dispute to the unions and their members was modest (£24 million); this is because, after the national one-day strike on 9 March 1981, the numbers on strike (or temporarily relieved from duty because they were not working normally or as directed) rarely exceeded 5,000, less than 1 per cent of the non-industrial Civil Service.

c. While the Government largely achieved its pay objectives, which were important both for public expenditure and because of the wider repercussions on the pay round, the financial cost of the dispute to the Government was considerable (notably an additional interest cost of £0.5 billion through delayed tax revenue), and there were many other penalties, both macro-economic (eg the distortion of the monetary aggregates) and managerial (eg the deferment of taxation of unemployment benefit and the delay in computerisation of Schedule D tax).

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d. The cost to the Government would have been much greater (eg an interest cost of £1 billion rather than £0.5 billion) but for the co-operation of a small number of key staff at middle and senior management level who took on duties beyond their normal work; the availability of similar co-operation in the future may be vital.

Analysis of the problem

7.3 Part 2 of the report analyses the nature of the problem and makes the following main points -

a. If the Government is to prevent and deter industrial action in the future, and if such action occurs, to counter it satisfactorily, it must, like other employers, pursue two goals: one is to secure and retain the loyalty of at least a substantial majority of the staff; the other is to be, and be seen to be, sufficiently resolute and resourceful to withstand industrial action successfully.

b. The Government, unlike other employers, has to take into account not only its responsibilities and objectives as an employer but also its responsibility for the management of the economy as a whole. This can make it more difficult for staff and management in the Civil Service to see themselves as having the same sort of community of interest as can sometimes arise in the private sector in ensuring that a business remains viable.

c. If and when a dispute occurs, the Government may have to weigh conflicting considerations: the possibility of bringing the dispute to an earlier conclusion by increasing the cost to the unions against the risk of increasing the financial cost to the Government and worsening the disruption of services; and the short-term objective of bringing a particular dispute to a successful conclusion against the longer-term objective of improving industrial relations and thereby improving efficiency.

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d. For 1982 the unions themselves as yet have no particular plan and may hold their hand with the Megaw Report due in the summer. If there is industrial action, the most likely form is further selective strike action, although the unions' tactics may not be the same as in 1981.

Improving the climate of opinion

7.4 In order to improve the climate of opinion before and during pay negotiations and during a dispute it is recommended in Part 3 of the Report that -

a. Although the Government should continue to ensure the support of public opinion in future disputes in the Civil Service, strengthening the morale and loyalty of staff, particularly at middle management levels, is important both in avoiding disputes and, if disputes do occur, in ensuring a successful outcome.

b. On the main issues affecting morale over the next year or two (eg the 1982 pay negotiations, future pay arrangements post-Megaw, pensions, manpower, and new technology) the impression should be avoided that the Civil Service is being singled out for especially rigorous treatment, and the Government should seek to create confidence that it intends to deal fairly with its own employees.

c. Action should be taken, where possible, to improve morale in the longer term by dealing with matters unconnected with the main pay issues.

d. If a dispute occurs it is essential to have a reasoned message, supported by arguments and evidence, which can be put across persuasively to staff.

e. Public statements should also be prepared with an eye to the effect on employee opinion.

f. More use should be made of the management chain from Ministers through senior management to middle managers, to put across the reasoning behind the Government's position, and this process could also provide valuable feed-back about the development of staff opinion.

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Organisation during a dispute

7.5 On organisation during a dispute it is recommended in Part 4 of the Report that -

- a. A standing group should be set up, with the composition described in paragraph 4.5, to meet not less than once a week with a Treasury Minister as Chairman but with a senior Treasury official as Deputy Chairman under whom the Group would meet except when there was business of particular importance.
- b. The terms of reference of the group should be set out in paragraph 4.6.
- c. The group should also undertake the further work proposed in Part 5 of the Report and the assessment of departmental contingency plans proposed in Part 6 of the Report.

Management responses to industrial action

7.6 On the possible responses by management to industrial action, the group's conclusions and recommendations in Part 5 of the Report are as follows -

- a. Temporary relief from duty (TRD) remains, as in 1981, an important sanction where staff refuse to work normally or as directed. The procedures have been modified and, when applied in certain circumstances simplified, in the light of experience in 1981. In order to overcome the operational difficulties where local managers are themselves withholding co-operation, Departments, particularly those with numerous local offices, should consider carefully how the TRD procedures might be most effectively administered in the future and the outcome of these reviews should be reported to the standing group of officials discussed in Part 4 of this report.
- b. The option of reduced pay should be considered only in limited circumstances where the practical problems could be overcome and the use of TRD could not be justified.

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- c. The use of disciplinary procedures should not be considered as a means of seeking to end widespread industrial action, although these procedures may, as in the past, be appropriately used to deal with some individual cases.
- d. The draft legislation already prepared to permit lay-off without pay should be retained as a contingency measure and its provisions reviewed from time to time in the light of experience, with a view to its speedy introduction, if necessary.
- e. Until the new Employment Bill has been enacted, summary dismissal is unlikely to be a useful sanction to deal with widespread and concerted industrial action; although the new Bill will provide additional flexibility, some practical constraints will remain and the risks would have to be assessed carefully at the time.
- f. Legislation to permit suspension without pay, even in circumstances where staff were genuinely willing to work normally and their work was not affected by the industrial action of others, would be a major step going far beyond the contingency legislation on lay-off at d. above. If however Ministers were to conclude in a future dispute that the circumstances justified such a radical step, the necessary legislation could be prepared quickly.
- g. Although industrial action is taken into account to some extent in judging fitness for promotion, it would be disadvantageous to management to make it a general rule that this factor should be explicitly and systematically considered as a criterion for promotion.
- h. In those Departments where it would be appropriate it should be made clear to staff either immediately before or early on in the course of a period of industrial action in the future that the need to deal with backlogs of work once normal working has resumed would be given priority by management in deciding when annual leave might be taken.

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- i. Union facilities (other than check-off) are already withheld on particular occasions to avoid their being used in industrial action and it would be disadvantageous to go beyond this.
- j. The Government should clarify in the discussions about the new Facilities Agreement that it would be free to discontinue check-off in the event of industrial action, and the necessary preparatory work on implementation should be put in hand on a contingency basis.
- k. The possibility of making strike pay taxable should be considered in detail by the Inland Revenue.
- l. The unilateral implementation of a pay offer is unlikely to prove an effective tactic, except in special circumstances.
- m. Consideration should be given in the discussions following the Megaw Report to the possibility of introducing an explicit provision in the new Civil Service pay arrangements that pay settlements will not be backdated if agreement has not been reached by the due settlement date.
- n. The tactic of making pay offers conditional on not taking industrial action is worth considering only in certain limited circumstances.
- o. The option of a management ballot should be kept in mind in future disputes for use in certain circumstances but there are some practical problems. The Treasury should undertake a study in consultation with other Departments concerned to establish the cost and feasibility of conducting management ballots in the non-industrial Civil Service; in the light of this study Ministers would then need to consider whether plans should be made to carry out such ballots on a contingency basis and if so whether the Government should undertake the task itself or call on a third party.

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p. The approach of "no-strike" legislation or agreements is not worth pursuing unless, contrary to current thinking, the Government were to contemplate, following the Megaw Inquiry, some particularly advantageous and assured method for determining Civil Service pay in return for which the unions might be expected to accept without further inducement some restriction on their rights to take industrial action.

q. It would not be feasible to make major changes affecting the scope for civil servants to take industrial action by dealing with individual contracts. Further study should however be given to the possibility of clarifying the obligations of managers in relation to industrial action.

Departmental contingency planning

7.7. On contingency planning it is recommended in Part 6 of the Report that -

a. The main points in the contingency plans of each Department should be submitted to a Departmental Minister and his attention should be drawn to the limitations of the plans and to the assumptions on which they are based.

b. Once the bilateral discussions on the plans between central and individual departments have been completed an assessment of the overall position should be considered by the standing group of officials proposed in Part 4 of the Report, and should then be submitted to the Chancellor of the Exchequer.

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LESSONS FROM THE 1981 CIVIL SERVICE DISPUTE

Report by the Official Group

INTRODUCTION

The Prime Minister asked that an inter-departmental group of officials should study the lessons of the 1981 pay dispute in the non-industrial Civil Service. The Official Group of Lessons from the Civil Service Dispute (MISC 65) was set up under Cabinet Office chairmanship for this purpose; the membership is listed at Appendix A.

2. The main events in the dispute are listed for information at Appendix B.

3. In the following report -

Part 1 describes briefly the origins, nature and outcome of the 1981 dispute

Part 2 analyses the problems facing the Government in future disputes

Parts 3 to 6 consider the scope for action under various broad headings:

Part 3 - improving the climate of opinion before and during pay negotiations, and during a dispute

Part 4 - organisation during a dispute

Part 5 - the responses available to management in a dispute

Part 6 - departmental contingency planning

Part 7 summarises the Group's conclusions and recommendations.

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PART 1: ORIGINS, NATURE AND OUTCOME OF 1981 DISPUTE

Origins

1.1 Industrial action in the non-industrial Civil Service pay dispute lasted for 22 weeks from March to August 1981. As the summary of main events in Appendix B makes clear, the dispute was only partly about the level of pay increase in 1981. For many staff, particularly in the middle and higher grades, the dispute was about the suspension and termination of the Civil Service Pay Agreements, and the fact that the Government did not feel able to offer any specific assurances about Civil Service pay arrangements in the longer term. There was also a widespread feeling among civil servants, fuelled by Parliamentary and media comment, that the Government did not hold its employees in high regard. The unions therefore found it easier than in 1979 to gain support for industrial action. There is evidence that many of the civil servants who did not take industrial action, including many middle managers, continued working only, as they saw it, from a sense of loyalty to the service they were providing and to the Crown and felt themselves strongly alienated from the Government as their employer. Those considerations are relevant to attempts to avoid industrial action in the future and to the Government's ability to withstand such action at reasonable cost.

Industrial action taken

1.2 Although the dispute was long drawn out, the number of man-days lost (about 1 million) is not large in relation to the number of non-industrial civil servants affected by the dispute (535,000). This is because, after the initial one-day strike on 9 March, and with the exception of half-day protests on 1 April and 14 April, the unions' tactics were to call out on long-term strike a number of workers in key areas, mainly connected with the flow of Government money and with computer operations; and to supplement this by walk-outs, and protest meetings, of short duration in most Departments and other disruptive action (at ports and airports, for example). The numbers on strike

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and TRD* rarely exceeded 5,000 (less than 1 per cent of the non-industrial Civil Service) at any one time. The Departments mainly affected by selective action and TRD were the Inland Revenue (maximum number 2,466), Customs and Excise (834), Defence (1,026), the Scottish Courts Administration (446), the DHSS (474) and Employment (521). The bulk of the action took place outside London, for example in computer centres such as those of the Inland Revenue at Cumbernauld and Shipley, of the DHSS at Reading, Washington and Livingston, of Customs and Excise at Southend and of the Department of Transport at Swansea; and in parts of MOD. Although the total number of man-days involved in the selective action and arising from TRD was only 413,000, more man-days were lost as a result of it because some staff were left with no work (110,000 man-days) or insufficient work (440,000 man-days). The cost to the Government was considerable as paragraph 1.4 below demonstrates. The type and location of industrial action experienced in 1981 needs to be borne in mind in considering the responses open to management in future disputes.

Costs to unions and members

1.3 The cost of the dispute to the unions and members is estimated at £24 million in lost salaries and running costs. Of this £13 million represents the loss of Civil Service salaries by those involved in the one-day strike and subsequent walk-outs, for which there was no re-imburement by way of strike pay. A further £10 million represents strike pay (not taxable)** at 85 per cent of normal salary provided by the unions to those on selective strike; this was financed in part from strike funds and in part by special levies amounting to £6-8 million drawn from those not on selective strike. In practice, nearly all strikers received more than their normal salary. Against this cost the unions achieved only a 0.5 per cent increase in salaries over the 7 per cent originally offered in February (worth £13 million a year), together with access to arbitration (albeit possibly subject to Parliamentary override) in 1982.

* TRD: Temporary Relief from Duty. This is discussed in Part 5 of the Report, paragraphs 5.7-5.15.

** see paragraphs 5.49 and 5.51.

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Cost to the Government

1.4 As the Government has made clear in Parliamentary answers the main effect of the industrial action was to distort the flow of tax revenue. At the time when the strike was settled the outstanding revenue not collected had reached £6 billion; this backlog has now been reduced and it is expected that about £1 billion will remain outstanding by the end of 1981-82. This led to a temporary increase in the central Government's borrowing requirement at an interest cost of $\frac{1}{2}$ billion. The main counterpart of that was, in effect, some interest-free credit to the company sector which may, though the judgement must be highly speculative, have generated a marginal increase in economic activity. The most serious consequence of the revenue shortfall was the distortion in M_3 and the monetary aggregates and the problems this created for monetary policy.

1.5 In addition to these main economic and financial effects, Departments have estimated, with varying degrees of confidence, several other costs - for example, irrecoverable tax revenue which might amount to £130 million, the deferment of taxation of unemployment benefit and delay in the computerisation of the collection of Schedule D tax, the cost of the emergency Child Benefit payments system, the loss of Royal Ordnance Factory sales and so on. There was some cost to the economy, which is difficult to quantify, from the air traffic controllers' action. Finally, there has been some effect on Government business, which can only be assessed over the longer term, from the deterioration in staff morale, and in management-staff relations; from the inefficient working which was sometimes necessary during the dispute; and the problems of clearing back-logs, which in some cases may well extend into 1983.

1.6 Against this the Government achieved its objective of keeping the cost of the 1981 settlement very close to that provided for by the cash limit (the annual salary bill for the non-industrial Civil Service is some £5 billion), and the wider objective of reinforcing the pressures towards lower pay settlements generally, and within the public services in particular.

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Role of Middle Management

1.7 In considering the cost to the Government, it should be noted that the cost would have been much greater without the co-operation of a comparatively small number of key staff, at middle and senior management level, who were prepared to take on duties other than their normal work. As a result of their efforts, Government revenue amounting to £4.35 billion in the case of the Inland Revenue and £1.7 billion in the case of Customs and Excise, was banked, thus halving interest payments on increased borrowing. (Inland Revenue resources did not permit the banking of the - much more numerous - small cheques or the updating of records.) The Government's ability to rely on staff in key Departments voluntarily to undertake work not appropriate to their grade will clearly be of great importance in any future disputes.

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PART 2: ANALYSIS OF THE PROBLEM

2.1 In considering lessons for the future we have assumed that the Government has two main purposes -

- a. to prevent and deter future disputes in the non-industrial Civil Service from escalating into industrial action;
- b. in the event of industrial action, to achieve the Government's objectives at the time at minimum cost, both in financial terms and in continuity of important services.

2.2 It seemed to us that, in order to improve the chances of avoiding disputes (and of related industrial action), the Government, like employers generally, should ideally pursue two distinct goals. One goal is to secure and retain the loyalty of at least a substantial majority of the staff; the other goal is to be, and be seen to be, sufficiently resolute and resourceful to withstand industrial action successfully. These two requirements sometimes pull in different directions. As is made clear in the more detailed sections of the report, some of the actions which might be open to the Government to strengthen its position vis-a-vis its employees would have a substantial cost in terms of morale and loyalty. Similarly some of the ways in which the Government might most easily secure the loyalty of its employees are unacceptable for other reasons. In our detailed analysis we have kept both goals in mind, recognising that, in facing any particular choice of options, the Government will want to achieve the best mix of reasonableness and strength in its relations with its employees.

2.3 Furthermore, in formulating a pay offer to its staff the Government, unlike other employers, has to take into account not only its responsibilities and objectives as an employer but also its responsibility for the management of the economy as a whole. In the private sector it is often possible unambiguously to define what the business can afford by way of a pay increase and management and staff have a common interest in ensuring that the business remains viable.

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Neither of these apply in the case of Government; although everyone stands to benefit from a well-managed economy, in practice staff and management are unlikely to see themselves as having the same sort of community of interest as can arise in the private sector. This is a crucial difference which is reflected throughout our report, but particularly in relation to communications.

2.4 It has to be accepted that disputes may occur, despite an employer's best efforts to prevent and deter them. The purpose then, as paragraph 2.1 indicates, is to achieve the Government's objectives at minimum cost, both in financial terms and in continuity of service. Conflicting considerations may then arise. At some point the Government may judge that the best hope of bringing the dispute to an early conclusion is to increase the cost to unions and members of industrial action by escalating the dispute; against this may have to be weighed the risk of increasing the financial cost to the Government and worsening the disruption of services. There may be conflict between the short-term objective of bringing some particular dispute to a successful conclusion and the longer-term objective of improving industrial relations and thereby efficiency. In examining detailed issues later in our report, we have recognised these conflicting considerations. They lead inevitably to the conclusion that there is no "game plan" which can be prepared in advance and which can be guaranteed to work well in a future dispute; choices have to be made at the time.

2.5 We have nevertheless concluded that there are useful lessons to be drawn from the 1981 dispute. The first general lesson is that the Government needs to do more to influence the climate of opinion not just during a dispute but also in the period leading up to a dispute, and not just the climate of public opinion but the climate of opinion among the Government's own employees, and particularly among middle managers whose role may be crucial to the outcome of a dispute. Secondly, the fact that no satisfactory "game plan" can be drawn up in advance underlines the need for the best possible organisation for handling a dispute. Thirdly, even though it may not be possible to say in advance which particular courses of action should be adopted at various stages

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in a dispute, it is nevertheless important to explore fully the range of options available to management in a dispute - to ensure that they are as wide as possible and that their advantages and disadvantages have been assessed well in advance; the range of options covers two different kinds of action - management responses of a general service-wide nature and departmental contingency planning of a more specialised nature, adjusted in the light of experience. Parts 3 to 6 of the Report deal with the lessons of the 1981 dispute under these broad headings.

Relevance to 1982 negotiations

2.6 The report has only limited relevance to the 1982 negotiations - partly because these will follow a special pattern already laid down in advance, and partly because some of the actions considered could not take effect in time to influence the position this year. We nevertheless thought that it was useful to note briefly the special points of difficulty which might arise in 1982.

2.7 The key stages in the 1982 negotiations are likely to be -

- a. the Government's actual offer in response to the CCSU claim (possible timing: mid-February);
- b. assuming, as seems inevitable, that there will be arbitration, any announcement by the Government, following an arbitration award, that it would invite the House of Commons to override the award;
- c. if b. had occurred, a vote by the House of Commons to override the award.

2.8 It seems, on present evidence, that any industrial action at the stage of the initial offer would be unofficial, local and of short duration. Official action is more likely as a protest against override, if that occurs. The likelihood of industrial action during 1982 may also be influenced by the level

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of pay increase awarded to groups such as the Armed Forces and by non-pay issues - for example the announcement of departmental manpower targets for next year, decisions on the Scott Report on pensions, and developments on new technology. It will be of vital importance during 1982 that staff are fully informed about the steps in the negotiations, the Government's position, and, to the maximum possible extent, the rationale behind it. This is dealt with further in Part 3 of the Report.

2.9 We have been conscious throughout our report that it cannot be assumed that the unions would follow the same tactics as in 1981 in a dispute in 1982 or in any future dispute. The unions themselves as yet have no particular plan. It seems unlikely that an all-out strike for an indefinite period would be supported because of the cost to individuals. Selective action, as in 1981, concentrated on revenue flow might again seem attractive but it would depend on another round of voluntary levies; if this option were to be adopted again, the unions might be expected to place a high priority on trying to counter the management actions which in 1981 limited the loss of revenue; pressure on certain managers from their unions and colleagues might be expected to increase. The unions may indeed hold their hand, with the report of the Megaw Committee due later in the year; if there should be industrial action the most likely tactic, on balance, is further selective strike action (supported by a programme of action short of a strike). However, it cannot be assumed that, as in 1981, the unions would deliberately avoid closing down local Social Security offices. Some are known to believe that the Government conceded a small increase in its 1981 offer only after the industrial action began to affect local Unemployment Benefit offices. There is therefore likely to be greater pressure in future for early and widespread action in local offices, which trade union leaders might prove unwilling or unable to resist. Militant members of staff may well argue that public opinion is already sufficiently antipathetic to the Civil Service for this drastic step to carry little risk of further alienating the public.

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2.10 These possibilities are being kept in mind in the review of Departmental contingency plans referred to in Part 6. The probability that selective action will again be the main tactic in 1982 strengthens the need for management sanctions used in 1981 to be as operationally up-to-date as possible; these are covered in Part 5 of the Report.

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PART 3: IMPROVING THE CLIMATE OF OPINION

3.1 The Government's ability to prevent and deter a dispute and, if a dispute occurs, to achieve its objectives at minimum cost, depends in part on how successful it is in influencing the climate of opinion. There are two aspects to this task - the shaping of public opinion generally and the strengthening of the morale, and thus the loyalty of the Government's own employees. There are also two timescales - the need to influence opinion over the longer term, which is relevant to preventing and deterring future disputes, and the need to influence short-term attitudes in the course of a dispute through prompt and effective communications.

Public opinion

3.2 In any industrial dispute it is an important objective of an employer to secure the support of public opinion. This is particularly important for the Government since its position in the dispute will often be based on public interest as well as management considerations - the need to limit the burden of civil service pay on the rest of the economy and the desire to influence the level of pay settlements generally. In the 1981 dispute the Government was reasonably successful in securing and retaining the support of public opinion. Civil servants in general, unlike, for example, the nurses, are not a group of employees for whom there is instinctive public sympathy. At a time of high unemployment and falling wage settlements in the private sector, there was general support in the media for the view that the Government's 7 per cent offer was adequate. Since most of the industrial action did not, with the possible exception of the action by the CAA's air traffic controllers, have a dramatic and noticeable effect on the general public, there was little public pressure on the Government, apart from some media comment towards the end of the dispute, for a settlement. The general climate of public opinion must have been an important factor in influencing the members of the Civil Service unions to settle eventually for an offer which was only marginally better, at least in immediate cash terms, from that which preceded the industrial action. It also no doubt helped to moderate complaints from those who were affected by the disruption in the Government's services, for example within the business community. The Government will similarly wish to have the support of public opinion in future disputes.

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Employee opinion

3.3 There is however the danger that in concentrating attention on public opinion, the Government may pay insufficient regard to the need to influence the opinion of its own employees. As paragraph 1.1 indicates, the degree of support which the unions were able to secure for industrial action in 1981 was affected by the low regard which the Government was perceived as having for its own employees. The hostility of the media to civil servants appeared, in the eyes of many civil servants, to be fostered by the Government. This undermined loyalty at some levels in the service where there would normally be little support for industrial action. But although the support of middle management was very patchy overall, there were some key areas, as paragraph 1.5 indicates, where the efforts of middle managers were crucial in limiting the cost of the dispute. It is impossible to construct workable contingency plans on a large scale in many departments without relying on similar co-operation in the future. Moreover many of the management responses to industrial action discussed in Part 5 of this report are difficult to put into effect quickly without extensive co-operation from managers in local units. As paragraph 1.1 explains, the morale of many staff is still high in the sense that there is a commitment to the service being provided, but the feeling of alienation from the Government as employer is potentially harmful. Any further weakening of loyalty in the service, particularly at middle management levels, could have serious consequences in a future dispute. This suggests that a major priority for the Government is to pursue the longer-term aim of improving morale and strengthening loyalty among its employees and, if a dispute does occur, to take special care with communications not just with the public at large but also with the staff.

Morale

3.4 There are some obvious specific issues affecting Civil Service morale over the next couple of years - the handling of the 1982 pay negotiations, the new pay arrangements following the Megaw Inquiry, the Government's policy relating to index-linked pensions in the Civil Service and elsewhere in the public sector, the continuing effects of manpower reductions and the introduction of new technology. So far as future pay arrangements are

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concerned, there is clearly nothing to be done until after the Megaw Inquiry has reported although the inevitable uncertainty has an unsettling effect on morale. On pensions, the Government will shortly be considering the line which might be taken in a Parliamentary debate on the Scott Report. The tactics to be adopted in the 1982 pay negotiations are already under consideration by Ministers. In relation to all of these issues, and other matters affecting morale, the main need will be to avoid reinforcing the impression which many civil servants have that the Government wants to single out the Civil Service for especially rigorous treatment as an example to other employers in the public sector and elsewhere. It will also be desirable to avoid getting into a position where the Government has to break agreements rather than terminate them after the proper notice. The Government will want to create confidence that it intends to deal fairly with its employees.

3.5 There may also be scope for strengthening morale in ways unconnected with the main pay issues - by acknowledging achievements in improving efficiency, by encouraging (and being seen to encourage) a positive attitude to the Civil Service by the media, by reinforcing the existing efforts of Ministers to express appreciation of work well done and to develop contacts with their staffs, and by improving working conditions in some of the worst local offices. Many of these matters and other matters affecting morale are already being discussed by the Chancellor of the Duchy of Lancaster with colleagues.

Communications

3.6 In the short term the main task is to consider how to improve communications with staff before and during a dispute. It is of course axiomatic that the staff must be provided as quickly as possible with information about the Government's position and important developments in the dispute which is factually correct and not misleading. In addition it is desirable that the substance of the message should be of a kind which, despite the unavoidable difference of view between employer and employee on pay issues, can be presented as reasonable to the employee. As

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paragraph 1.1 makes clear, a major element in the 1981 dispute was the suspension of the Civil Service pay agreement. There was extensive general briefing sent out by the CSD to departments throughout the dispute, and used by departments to explain the Government's position to local offices. From an early stage this briefing, like the Government's public statements, made it clear that there had been increasing public criticism of the pay research system, including the need for changes in the way pay comparisons were made and for more weight to be given to other factors such as job security and the recruitment and retention position. These statements, though frequently repeated, were not reinforced with detailed evidence about the shortcomings of pay research. Most civil servants on the other hand were likely to think, unless persuaded otherwise, that the pay comparability system which had been in use for 25 years was a fair one. In the absence of evidence they were inevitably receptive to the union claim that the Government had abandoned pay research in 1981 simply because it was liable to produce data which would lead to an inconveniently high offer and not because it was in any genuine way defective. The problem was compounded because the Government found itself unable to give specific assurances about the new pay arrangements. As the majority of the staff saw it, the Government merely asserted that a system which had operated for 25 years was unsatisfactory but did not demonstrate how and why it was unsatisfactory or indicate what was likely to be put in its place.

3.7 It may well have been difficult for the Government in the 1981 dispute to act otherwise than it did. For the future however it is essential to have a message which contains more supporting argument. This is relevant not just to the direct impact on the rank and file but also to the ability and willingness of senior staff and managers to explain and justify the Government's position to their subordinates. In the 1981 dispute it was notable that few senior staff felt able to do more than pass on information about the Government's position; appeals to subordinates tended to be based merely on the need to carry on a particular service in the national interest or in the interest of the sections of the community concerned. It should be borne in mind that managers in the Civil Service are less well placed than

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their counterparts in the private sector in trying to secure acceptance by their subordinates of a particular pay settlement. In the private sector it may be possible to demonstrate the effect of higher pay on the competitiveness of a particular plant or the success of the company as a whole. Appeals relating to the well-being of the economy as a whole are inevitably less persuasive and this makes a reasoned management message all the more desirable. It should also be remembered that many middle and senior managers are not London-based and have never had Whitehall experience. They do not feel themselves so much part of central Government but rather alongside their staff operating often in areas identical with or analogous to private sector activities. Essentially the requirement is for a simple and clear message for the rank and file, and some well-argued briefing for managers designed both to convince them of the merits of the Government's case and to help them put the case across to their subordinates.

3.8 It should also be kept in mind that communications with the public and communications with staff during a dispute cannot be treated as two separate exercises. Although there may be differences of emphasis for the two purposes, the messages have to be kept consistent. Indeed it is likely, as the 1981 dispute demonstrated, that staff will hear first of important developments in the dispute from the media, although this can be supplemented quickly by notices and circulars. The lesson is that public statements, and not just those specifically designed for staff consumption, should be prepared with an eye to the effect on employee opinion as well as public opinion.

3.9 Finally, experience in the 1981 dispute suggests that the prompt dissemination to the staff of factual information about the Government's position, while necessary and valuable, will not be enough. The effect on employee opinion is likely to be greater if more use is made of the Ministerial and management chain to put across the arguments in support of the Government's position. As paragraph 3.6 and 3.7 above suggest, a precondition for this is that the message to be put across is one likely to be convincing to management. The task is of course much more difficult

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if the Government's position at a particular time has been determined primarily by its macro-economic objectives. It may also be unrealistic because of the grading structure in the Civil Service and the degree of unionisation, to expect some of the lower levels of management to view pay issues through the eyes of an employer rather than an employee. There are therefore limits to what better communication can achieve, but everything possible should be done within those limits. The process of communication should begin at the top with Ministers and work down through senior managers to the middle managers (EO to Principal level) managing operational units. If senior staff thoroughly understand the policies they are responsible for implementing they will be able to make a much more convincing job of getting them explained down the line in a way most likely to enlist the co-operation of staff at all levels. In the 1982 pay negotiations, for example, it is for consideration whether each Minister should, on the basis of a briefing note centrally prepared, explain to his staff in the Open Structure the Government's approach to the negotiations, and seek their co-operation in passing the message down the management chain. Moreover effective communication is a two-way process, and it is important for information to be fed back, during pay negotiations, about staff reaction to proposals put forward by the Government and the unions. Although the process of communication described above is not intended to be a consultative process, it might help to provide additional valuable feed-back about the development of staff opinion.

3.10 Our recommendations in Part 3 of the Report can be summarised as follows -

- a. Although the Government should continue to ensure the support of public opinion in future disputes in the Civil Service, strengthening the morale and loyalty of staff, particularly at middle management levels, is equally important both in avoiding disputes and, if disputes do occur, in ensuring a successful outcome.
- b. On the main issues affecting morale over the next year or two (eg the 1982 pay negotiations, future pay arrangements post-Megaw, pensions, manpower and new technology, the impression should be

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avoided that the Civil Service is being singled out for especially rigorous treatment, and the Government should seek to create confidence that it intends to deal fairly with its own employees.

c. Action should be taken, where possible, to improve morale in the longer-term by dealing with matters unconnected with the main pay issue.

d. If a dispute occurs it is essential to have a reasoned message, supported by arguments and evidence, which can be put across persuasively to staff.

e. Public statements should also be prepared with an eye to the effect on employee opinion.

f. More use should be made of the management chain from Ministers through senior management to middle managers, to put across the reasoning behind the Government's position, and this process could also provide valuable feed-back about the development of staff opinion.

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PART 4: ORGANISATION DURING A DISPUTE

4.1 The analysis in Part 2 of the Report underlined (paragraph 2.4) the need for effective organisation during a dispute. The main requirement is that all Departments should be aware of the Government's overall strategy for handling the dispute, should have a clear understanding of their own responsibilities and those of other Departments, should be ready to co-operate with other Departments when the need arises, should have up-to-date information, should be able to share experience, should have a ready means for obtaining guidance on problems of general application, and should be able to react promptly and flexibly to the changing needs of the situation.

4.2 This Group has not concerned itself with each Department's internal arrangements for handling a dispute as these will reflect particular circumstances and more properly form part of departmental contingency planning. We have also not sought to make recommendations about the arrangements which the Prime Minister might make for senior Ministers to consider collectively the strategy relating to Civil Service pay negotiations or the handling of a dispute. We have however looked into the machinery for day-to-day co-ordination between Departments in the light of experience during the 1981 dispute.

4.3 In 1981 day-to-day interdepartmental co-ordination was achieved by the Group in Industrial Action (GIA) chaired by the then Minister of State in the Civil Service Department and comprising officials from the main Departments. This replaced an earlier Committee which had official membership only, the Steering Committee on Industrial Action (SCIA). GIA met daily at first, and then, towards the end of the dispute, three times a week. The functions of GIA were to ensure that information on the conduct of the dispute came in regularly, that Departments were sufficiently informed of what was going on in other Departments, and that the response of Departments to the dispute was co-ordinated.

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4.4 We consider that similar arrangements should be made in a future dispute, with the following modifications: first that, although the Group will need to meet frequently, the frequency should be rigorously controlled to limit the demands on the time of senior officials with a key role in handling the dispute; secondly that, although it would be desirable for a Treasury Minister to chair the Group at some of the more important meetings, an official chairman should suffice for the more routine meetings; and thirdly that the Group would benefit from having clear and explicit terms of reference.

4.5 We therefore recommend that a standing group should be set up comprising the Principal Establishment Officers of the main Departments together with appropriate representatives from central Departments and advisers from the legal Departments. During industrial action this group would meet as frequently as circumstances warranted but not less than once a week. It would have a Treasury Minister as Chairman and a senior Treasury official as Deputy Chairman. Except when there was business of particular importance it would meet under the Deputy Chairman (as is the case with the Civil Contingencies Unit).

4.6 We recommend that during a period of industrial action the terms of reference of the Group might be -

- a. to monitor the progress of the dispute with the aid of regular and frequent reports from Departments on the extent and nature of industrial action, the effects of the action on the work of Government, and the efforts of Departments to counter the action;
- b. to facilitate the sharing of experience by Departments;
- c. to identify problems of general concern, to devise solutions and, where appropriate, to make proposals for dealing with them for consideration by Ministers collectively;

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d. to discuss and advise on changes in tactics in the light of the general strategy approved by Ministers; and to co-ordinate their implementation, where necessary;

e. to review the adequacy of action taken to communicate the Government's position publicly and to the staff to ensure that any necessary further action is put in hand;

f. to report to Ministers from time to time on the progress and effects of the dispute; and

g. to be available as a source of advice to Ministers, as required, about major issues relating to the handling of the dispute.

4.7 We recommend that this Group should also undertake the work proposed in Part 5 of the Report and the assessment of contingency plans proposed in Part 6 of the Report.

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PART 5: MANAGEMENT RESPONSES TO INDUSTRIAL ACTION

INTRODUCTION

5.1 In reviewing the lessons of the 1981 dispute, the Group devoted most time and attention to possible management responses to industrial action ie the action open to management to deter industrial action before it occurs, to counter it when it is in progress and to help bring it to an end. Departmental contingency planning is concerned with separate issues, namely how to circumvent industrial action or cope with its effects, and is dealt with in Part 6 of this report.

5.2 It is axiomatic that staff who do not work are not paid. Thus the fundamental response of management to industrial action is to face staff, individually or collectively, with a clear choice between working normally or losing pay, and to find ways of increasing the financial pressures on staff to return to normal working. It is also the case that staff who commit disciplinary offences can be punished under the established disciplinary procedures. However there are legal constraints on management's freedom of action which bite on all employers; and there are also important practical constraints which need to be weighed carefully.

The Legal and Practical Constraints

5.3 The legal constraints on management's responses in dealing with industrial action arise from statute, and from the contractual relationship at common law from which the sanctions themselves derive. The most important are -

- a. the statutory immunity of trade unions and their officials in organising industrial action (now to be restricted);
- b. the statutory provisions against unfair dismissal (notably the probability that selective dismissal would be found unfair);
- c. the common law contractual right of white collar (and some, but not all, manual) workers to be paid when willing to work;

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- d. the common law contractual right not to have conditions of service unilaterally changed; and
- e. the procedural safeguards attending disciplinary measures, case by case.

5.4 The practical constraints arise partly from the size, diversity and dispersion of the non-industrial Civil Service (for example the need to deal quickly with simultaneous industrial action in many separate local offices spread over a wide area) and partly from the multiplicity of the Government's objectives. Thus, in considering whether management should respond to industrial action in a particular way at a particular time and whether escalation may be advantageous at a particular stage, many factors will need to be considered, for example -

- a. what weight should be given to achieving a low pay settlement, which may have macro-economic as well as cost benefits, as opposed to maintaining continuity of Government services and avoiding cost penalties?
- b. what effect would escalation have on the provision of services to the public, and who would be regarded by the general public as responsible for any deterioration in services?
- c. how far may action which could have short-term tactical benefits have a disproportionately adverse effect on the long term relationship between the Government and its employees? (This may be particularly relevant in the case of those measures which would put civil servants in a less favourable position than other white collar employees)
- d. will middle managers be prepared to implement particular measures? (In some cases their co-operation is essential)
- e. will certain actions alienate the support of those who have hitherto been operating contingency plans, or disrupt services hitherto unaffected by the strike?

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The Broad Categories of Management Response

5.5 Against this background we have considered the range of options which might be available to management, as a response to industrial action, under the following main headings -

- a. ensuring that those who take industrial action lose pay either because it is reduced or withheld or, in the case of staff who refuse to work normally or as directed, through the application of Temporary Relief from Duty (TRD);
- b. disciplinary measures;
- c. relieving Government of the cost of paying those whose work is affected by the industrial action of others by laying them off without pay (and thus imposing costs on individuals and/or unions);
- d. penalties imposed generally on those who take industrial action (ie other than through individual disciplinary procedures, and going beyond the withholding of pay for work not done or affected by the industrial action of others); these might include dismissal, suspension without pay, reduced leave entitlement and diminished promotion prospects;
- e. actions directed at the trade unions - ie withdrawal of facilities, suspension of the arrangement whereby trade union subscriptions are deducted from pay ("check-off"), making strike pay taxable;
- f. tactics designed to end industrial action - ie unilateral implementation of a pay offer, no backdating, increases paid only to those who have not taken industrial action, management ballots; and
- g. restricting the freedom to take industrial action by law, by no-strike agreements or by contract. These options are examined in detail in the following paragraphs.

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Timing

5.6 It should be noted that some of these options are already available to management within certain limitations (for example TRD and disciplinary measures). Many other options could not, irrespective of their merits or demerits, be exercised without new legislation or other preliminary steps which would take time, and are not therefore likely to be available in 1982. It is, of course, also open to Ministers to seek injunctions against named individuals under existing industrial relations legislation for those types of industrial action which are illegal. Once the Government's Employment Bill is enacted it will be possible to seek injunctions against the trades unions in similar circumstances.

TEMPORARY RELIEF FROM DUTY

5.7 Temporary relief from duty (TRD), ie sending home without pay staff who refuse to work normally or as directed, was the main sanction used during the 1981 dispute. TRD is not a disciplinary procedure. By withholding pay, management is responding to a breach of contract by the staff. In bringing home the consequences of that breach of contract, management expects to terminate the breach and to deter similar breaches of contract. The procedure, which was significantly shortened during the 1981 dispute as we discuss below, involves a series of warnings to the staff concerned about the consequences of a continued refusal to work normally, with opportunities for the member of staff involved to review his position and consult his advisers.

Experience in 1981

5.8 During the 1981 dispute a number of problems were encountered in the application of TRD. In Departments with widely-dispersed local units local managers sometimes refused to initiate the TRD procedures and this task fell to regional managers who found difficulty in carrying it out effectively. In other cases staff, when warned by management of the consequences of failing to work normally (as the TRD procedures require), returned to work only to resume industrial action a short time afterwards,

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which meant that any further attempt to apply TRD had to be started from scratch. In the early stages of the dispute legal advice was that a clear refusal to work normally had to have been demonstrated and adequate time allowed by management for staff to reconsider before they could safely be relieved from duty. But once it became clear that a refusal to work normally on the part of certain staff was the result of deliberate and well-orchestrated trade union tactics and that the staff concerned were fully aware of the consequences of their actions, the TRD procedures could be simplified in a number of respects and the time taken to apply them significantly shortened. Thus warnings were sent to home addresses, the period for reflection reduced to as little as 4 hours and in some cases warnings were issued in advance of industrial action. In the case of Customs and Excise, Ministers authorised senior staff to apply TRD in defined circumstances which meant, at one crucial stage in the dispute, that it could be applied very quickly and was thus particularly effective. In the DHSS authority for the use of TRD by local management was issued and co-ordinated by a central unit so that legal advice was quickly available to them on whether TRD was applicable in particular circumstances and the best tactics to adopt in doing so discussed in the light of experience in other parts of the Department. The Inland Revenue followed broadly the same procedure as the DHSS, with reports back to Ministers on the results of each stage of the TRD operation before proceeding to the next.

Streamlining of procedures

5.9 A number of the modifications introduced into the TRD procedures during the dispute can safely be retained for the future. In other cases (eg embodying the first warning in a general notice or circular to staff) it will again be necessary to be able to demonstrate orchestrated trade union tactics and a clear awareness on the part of the staff concerned of the consequences of their actions before further simplification of the procedures is possible. But in the light of experience gained in

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the 1981 dispute it is possible to move more rapidly to the position where the TRD porcedures have been reduced to the legally-safe irreducible minimum; and TRD can be used more flexibly, to maximum effect.

Remaining limitations

5.10 There are, however, two important limitations on the use of TRD. First, a clear breach of contract must have been committed before it can be applied and TRD cannot be applied to individuals other than those in breach of contract. Thus by careful tactics the trades unions can limit the extent to which TRD can be applied. It is, therefore, an essential limitation of TRD that it cannot be used as a means of increasing the financial burden on the trades unions by relieving from duty substantially more staff than the trades unions are prepared to allow to take industrial action.

5.11 The second limitation is the willingness of middle management to apply TRD. It is an essential pre-requisite for the use of TRD that management can specify which staff are not working normally and in what respects; normally this can only be done by local management. In the 1981 dispute the reluctance of local management to apply TRD was a major problem for the Inland Revenue. TRD often had to be applied from their regional offices by senior managers, but the need for a specification of the breach of contract meant that TRD could not be effectively applied throughout the Inland Revenue by the limited number of mobile managers available.

5.12 A further difficulty is that it is not clear how far TRD can be applied to employees refusing to carry out the duties of those on strike (as against refusing to carry out their own duties normally). The practice of departments varied. The constraints are first, the qualifications, experience, etc necessary for the particular job - which is a question of fact for management - and second, the extent to which an employee is entitled to refuse to carry out the work of another employee by standing on the terms of his contract of employment - which is a question of law.

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5.13 The second question has not yet been authoritatively decided in relation to any Civil Service employee, although two litigations presently before the Court in Scotland (and arising out of an earlier dispute) may throw some light on the matter. In the meantime, in the light of experience gained during the 1981 dispute, (and subject to the results of any future decisions of the Courts) legal advice is that where it is essential to a Department that a particular job be carried out, any officer who is qualified, where necessary, and capable of carrying it out may be required to do so, if the work involved falls within the category or categories of work appropriate to his grade or the grades of those he supervises.

Trade Union tactics

5.14 No doubt the trade unions will also be considering how to cope with TRD in future disputes. They may seek to test in the courts the legality of TRD. There is judicial authority in Scotland (but not in England and Wales) supporting the principle underlying TRD, and it may be significant that no action to test the principle has (so far) been taken in connection with the recent dispute. The Law Officers have advised that the legality of TRD, if challenged, would be likely to be upheld. Even if no action questions the principle of TRD, however, it will always be possible for an employee to claim that its use was not justified in a particular case. In this way the unions might seek to limit the circumstances in which TRD could legally be used. The unions are likely also to be developing new tactics in the light of the experience they gained in 1981. We cannot usefully speculate on the tactics they might adopt in future disputes, but they will no doubt have recognised the part played by middle management in 1981 in countering the effects of the industrial action and they are therefore likely to seek to recruit as many more staff in these grades as possible.

Next steps

5.15 We have not identified any further modifications to the TRD procedures in themselves which would overcome the residual problems without a real risk of legal challenge. The main need is to overcome the operational difficulties where local managers are themselves withholding co-operation. We therefore recommend that departments, particularly

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those with numerous local offices, should consider carefully how the TRD procedures might be most effectively administered in the future. To ensure that information about new or particularly effective approaches adopted by individual departments in 1981 is generally disseminated we also recommend that the outcome of the above departmental reviews should be reported to the standing group of officials discussed in Part 4 of this report.

Reduced pay

5.16 When staff refuse to work either a full day or to perform their full range of duties it is also open to management to reduce their pay for that day. This approach, which can be viewed as a milder variant of TRD, has not so far been adopted in the Civil Service; it was seriously considered by at least one department early in the 1981 dispute, but rejected in favour of TRD. The administrative complications in doing so would be considerable and there would be substantial scope for legal challenge. Staff would have to be warned individually of management's intention to reduce or withhold pay and thus this approach would be no more flexible than TRD. Moreover, although an employer is entitled to withhold that proportion of an employee's pay which relates to the proportion of duties which have not been performed, the practical difficulties involved in assessing exactly what this proportion might be would be considerable; for example, it would be necessary to establish the importance of the work not done in relation to that which had been done. It would thus be difficult to establish rules of thumb for local managers and the opportunities for legal challenge to management's decisions on the proportion of pay to be withheld in individual cases, would be considerable. Moreover, this approach effectively sanctions selective working by staff when management's prime objective in future disputes is likely to be to face staff with a clear choice between working normally or going on strike.

5.17 We therefore do not recommend the option of reduced pay except in those circumstances where the use of TRD could not be justified and the practical problems with reduced pay could be overcome. In these limited circumstances reduced pay would be a useful addition to the options open to management.

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DISCIPLINARY MEASURES

5.18 It is clearly open to management to take disciplinary action against staff who commit a disciplinary offence during the course of industrial action and in any dispute there may be some individual cases of this kind. But the widespread use of disciplinary procedures as a means of seeking to end industrial action seems unlikely to be an effective tactic. The procedures have been designed to deal with individual cases and therefore contain a number of procedural safeguards which could not be set aside without the risk of legal challenge. Moreover, for this reason the procedures tend to take time and effort and their widespread use could therefore place an intolerable burden on management, whose attention can be expected to be fully taken up with coping with the consequences of industrial action. Furthermore, the use of the disciplinary procedures in this way could well give rise to new grievances and allegations of victimisation and thus intensify the industrial action by obscuring the real issues and alienating moderate opinion. It is also likely that the trade unions would insist as part of any agreement on return to work that any disciplinary measures which had been applied as a general response to industrial action should be rescinded.

5.19 We do not therefore recommend that further consideration should be given to the use of disciplinary procedures as a means of seeking to end widespread industrial action, although these procedures may, as in the past, be appropriately used to deal with some individual cases.

LAY OFF WITHOUT PAY

5.20 Common law does not allow employers to lay off without pay white-collar employees for whom, as a result of the industrial action of others, there is no work to do. Industrial civil servants can be laid off without pay immediately, if they are without work as a result of industrial action by other industrial civil servants, and after 28 days (under the Agreements on Guaranteed Payments) if they are without work as a result of industrial action by anyone else; similarly other blue-collar employees in the United Kingdom can usually be laid off when there is no work for them, subject to any guaranteed week agreements.

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5.21 The objectives of legislation to permit lay-off without pay might be -

- a. to exert financial pressure on staff willing to continue to work so that they in turn press the trades unions to settle;
- b. to relieve an employer of the cost of salaries paid to those who have no useful work;
- c. to increase the potential cost to the trade unions of continuing with industrial action; and
- d. to deter the trade unions and the staff from taking industrial action in the first place.

5.22 A number of Departments felt that a power of lay-off would be a useful addition to the sanctions available to management, principally to deal with those situations where a strike by a small number of staff can prevent large numbers from working usefully or at all. Such a situation arose in a number of locations during the 1981 and previous disputes. For example in 1980 a handful of IPCS staff at Bishopton virtually brought the Ordnance Factory to a standstill at a cost of £10 million. In 1981 at the DHSS Newcastle Central Office a strike by 230 staff employed on the Contributions Records computer and 100 staff on the Child Benefits computer led to nearly 200 staff being without any work, to some 4,000 staff working to half their normal capacity, and to 2,000 staff working to two-thirds of normal capacity. The strike action imposed a major burden on Employment and DHSS Local Offices who had to operate emergency procedures to replace the computer service.

5.23 Against this it should be noted that, even if this option were to be made available to the Government, there would be considerable practical constraints affecting its use. The main consideration as paragraph 5.4 above suggests, is that this would involve a considerable escalation of

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the dispute. It might alienate the support of various groups of staff: those who had so far been prepared to work normally; middle managers whose co-operation is essential in limiting the effects of industrial action and applying sanctions to staff below them; and staff with a key role in operating departmental contingency plans. While the Government's pay bill would be reduced, the disruption to the Government's services might be increased.

5.24 The advantages and disadvantages would need to be weighed carefully in the light of circumstances at the time. The legislation necessary to permit lay-off without pay either for civil servants or for employees generally has already been drafted on a contingency basis, but at no time during the 1981 dispute was it judged right to introduce this legislation, given the severe escalation of the dispute which would have resulted from doing so. Ministers also considered the introduction of general legislation along these lines in the context of the Employment Bill, but decided against it, although the issue may arise again during the Bill's passage through Parliament.

5.25 It might be argued that the Government should not merely have the legislation available on a contingency basis but should introduce it, on a basis limited to the Civil Service, as soon as possible. The justification would have to be the experience of the 1981 dispute and the intention would be primarily to deter in advance selective action designed to prevent large numbers of staff from working properly. The main argument against such a course of action is that it would constitute a deliberate restriction of the rights of civil servants as against other white-collar employees. In terms of the effect on Civil Service morale and loyalty, the Group concluded that it would do much more harm than good.

5.26 Moreover, the trade union movement generally might see even limited legislation of this sort as a potential threat to them and as a result they might well unite behind the Civil Service trade unions in a campaign of opposition to the legislation. In any case, a wide measure of public and Parliamentary support would be necessary for the passage of such

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radical powers and in the absence of a major industrial dispute in the Civil Service with significantly worse effects than in 1981 there must be some doubt as to whether sufficient support could be mustered.

5.27 We therefore recommend that the draft legislation to permit lay-off without pay should be retained as a contingency measure and its provisions reviewed from time to time in the light of experience, with a view to its speedy introduction if necessary.

GENERAL PENALTIES

Dismissal

5.28 Summary dismissal is a lawful response to industrial action, and if all strikers in a given dispute are treated alike there is no appeal to an industrial tribunal on a complaint of unfair dismissal (although an appeal to the Civil Service Appeal Board would be possible). However, if distinctions are made (eg to re-engage some but not all) an industrial tribunal may well judge the dismissals unfair. Since tribunals have drawn no distinction for this purpose between different times or degrees of involvement, it would have been necessary in the 1981 dispute to dismiss all who struck at any time (more than half the Civil Service) for any one dismissal to be judged fair, unless wholly exceptional circumstances were present to justify that particular dismissal.

5.29 Under the Government's new Employment Bill the employer will be immune from appeal if all who are actually on strike at the time of dismissal are treated alike provided that notice had been given that they might be dismissed if they did not return to work. Thus, all strikers could be threatened with dismissal, and the Government could retain those staff who returned to work by a certain time. In theory, this could be a powerful new sanction, particularly to counter cases where key workers only were brought out, because staff would probably be much more deterred by the prospect of losing their jobs than by loss of pay, which could be reimbursed by the unions. Its effectiveness in this sense might be even greater if the provisions of the Bill related to place of work rather than the employer, since the powers could then be used more selectively.

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However, this would make the measure far more contentious, and the present proposals have therefore been framed on the basis of employers; it would in any case be difficult in practice to use the powers discriminatorily between different groups of strikers in the same dispute.

5.30 Although the new Employment Bill will, if enacted, give the Government some additional flexibility in using the sanction of dismissal as a response to industrial action, some fundamental practical constraints should be borne in mind. If a large number of civil servants were on strike, the Government would have to be confident that the threat of dismissal would work, or that it could do without the services of the staff concerned. These risks would have to be assessed carefully at the time. The re-instatement of those dismissed would inevitably become an issue in the final settlement.

5.31 These considerations in paragraphs 5.29 and 5.30 above apply to the use of dismissal under the Government's new proposals. In any widespread and concerted industrial action before that (before, say, the summer of 1982) summary dismissal would be subject to the existing law and would be unlikely to be a useful sanction for the same reasons as in 1981.

Suspension without pay

5.32 Bearing in mind the practical constraints on dismissing large numbers of staff, the Group considered whether it would be feasible and desirable to seek to apply the less drastic but more flexible sanction of suspension without pay. The suspension without pay of those who have taken industrial action but are willing to return to normal working is not allowed under the common law. Nor would it be covered by the contingency legislation for lay-off referred to above unless the work of the person concerned were disrupted by the effects of the industrial action of others.

5.33 Suspension without pay is possible under the disciplinary procedures either as a penalty itself or as a precaution pending the completion of a disciplinary inquiry. However, these procedures could not be used to counter industrial action effectively for both legal and practical reasons.

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Legally, the use in this way of the disciplinary procedures could be challenged in the courts as an evident abuse of a provision intended to be either the penalty for a major individual offence which had been proved or a holding measure while such an offence was being investigated (eg where a civil servant was suspected of serious fraud). In practice the procedures could not be applied on the necessary scale or in a way which would avoid the charge of blatant discrimination. Moreover, to attempt to do so would almost certainly be counter-productive since, by creating new grievances which would attract a wide measure of support, it would divert attention from the real issues at the root of the industrial action. It would also be extremely time-consuming for management.

5.34 Legislation to permit suspension without pay would have to be drafted to allow suspension entirely at management's discretion without appeal, even in circumstances where staff were genuinely willing to work normally and their work was not affected by the industrial action of others. This would be a major step going far beyond even the contingency legislation on lay-off referred to above. It would be bound to be opposed vigorously by the trade union movement as a whole. Again, a wide degree of public and Parliamentary support for such a measure would be required before it could be enacted. Thus, for much the same reasons as apply to lay-off, we do not think that legislation of this kind would be practicable in advance of a major industrial dispute with effects going well beyond those felt in 1981. If, however, Ministers were to conclude in a future dispute that the circumstances justified such a radical step the necessary legislation could be prepared quickly.

Non-pay Sanctions: Promotion and Leave

5.35 Industrial action already leads to the loss of other benefits on top of the pay lost, in that increments are delayed and pension entitlement and leave are reduced in proportion to the time spent on strike. Whether or not a particular member of staff has taken industrial action or refused to carry out management directions is probably taken into consideration to some extent by line management in judging his or her fitness for promotion,

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at least at more senior levels. But it is not formally a criterion for promotion. The question arises whether it would be to management's advantage for willingness to take industrial action to be made a factor explicitly to be considered in assessing suitability for promotion.

5.36 At present the personal files of staff do not require a record of whether or not they took industrial action; the loss of pension and other benefits mentioned above can be calculated automatically, and since willingness to take industrial action is not a formal criterion considered in the context of promotion it would be difficult to justify annotating personal files. In any case, the trade unions normally insist that return-to-work agreements specifically rule out punitive measures. Any attempt to make industrial action a specific consideration in the context of promotion would not only make future pay settlements more difficult following industrial action but could also create additional areas of dispute between management and staff because of the alleged victimisation of particular individuals. Moreover, in some departments operating efficiency would be severely reduced if the eventual promotion of those who had taken industrial action were to be ruled out. The result could be to inhibit management from following current practice and to make it impossible for any consideration to be given in assessing suitability for promotion to the readiness of the particular individual to take industrial action.

5.37 For these reasons we do not recommend that the Government should seek to make a general rule under which the taking of industrial action or the refusal to obey management instructions during an industrial dispute would be explicitly and systematically considered as a criterion for promotion.

5.38 The amount of annual leave that may be taken is a legal entitlement, although when it may be taken is at management's discretion within reasonable limits. Following the 1981 dispute annual leave was not permitted in some departments until backlogs of work had been cleared up. For the Government to make clear that this would also be the case in future could well have some slight deterrent effect on the willingness of staff to take industrial action, particularly since any industrial action over pay

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would be likely to occur before or during the holiday season. However, there are limits on the extent to which the denial of annual leave as a punitive sanction would be in management's interests. After the 1981 dispute some departments encouraged staff to make good the leave they had lost through industrial action by working overtime and claiming leave in lieu as a means of quickly reducing backlogs of work. There is also the danger that to take too strict an attitude to leave could lead to the abuse of sick leave which could be very difficult for management to control.

5.39 We recommend that in those departments where it would be appropriate it should be made clear to staff either immediately before or early on in the course of a period of industrial action in the future that the need to deal with backlogs of work once normal working had been resumed would be given priority by management in deciding when annual leave might be taken.

ACTION AGAINST THE UNIONS

5.40 Industrial relations in the Civil Service are based on the direct involvement of serving civil servants as union representatives, and representatives are given paid time off (and limited additional facilities such as the use of accommodation and telephones) for this purpose. We have considered whether it would be a useful sanction on the unions in the event of industrial action to withdraw these facilities more generally, or to discontinue the check-off arrangements for transferring union subscriptions directly from their members' pay. The Group did not consider the wider issue, which has received some public and Parliamentary attention recently, of the extent to which union facilities should be provided in the Civil Service generally, but only the provision of such facilities in the event of industrial action.

Facilities

5.41 These facilities are provided under the non-industrial Civil Service Facilities Agreement of 1974, which provides for **one** year's notice to be given on termination. In practice facilities are not provided when they would be used to plan or carry out industrial action, and management's

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discretion in withholding them in those circumstances is understood and accepted by the unions at least at national level. The Agreement is being renegotiated and a revised draft agreement to provide for improvements which the Government wishes to see introduced is now with Ministers for approval. It would still provide for one year's notice of termination but would include an explicit statement of principle that facilities would not be provided for purposes connected with industrial action. Meanwhile, the 1974 Agreement continues to govern the provision of facilities until it is replaced by the revised Agreement or until notice of termination has been given and the one year's period of notice has elapsed.

5.42 In addition, employers are legally required by the Employment Protection (Consolidation) Act 1978 to provide reasonable paid time off for industrial relations duties, and time off (which may be paid or unpaid) for trade union activities, and failure to do so may be referred to an industrial tribunal. The Code of Practice covering what is to be considered reasonable time off says that there is no obligation on employers to permit time off for union activities which themselves consist of industrial action, but clearly does not envisage that industrial action would remove the employer's legal obligation to provide any facilities at all: it says, for instance, "where an official is not taking part in industrial action but represents members involved, normal arrangements for time off with pay for the official should apply".

5.43 Thus, particular facilities (except check-off: see below) are already withheld on particular occasions to avoid their being used in industrial action. To seek to exert greater pressure on unions by making industrial action the reason for withholding facilities more widely would again open the Government to the charge of terminating an agreement without giving the agreed notice, and would be illegal in respect of paid time off, which is by far the most important facility in question. Paid time off for activities to which the legal requirement does not apply is a small part of the whole, and is provided for activities like meetings of Committees or Conferences in which the Government would most wish to encourage wide attendance to avoid a bias toward more activist views. Another possibility, that of withholding

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all facilities from one individual, would be illegal because it would in effect be seeking to exercise control over the staff's choice of union representatives. There is therefore little to be gained, and the likelihood of disproportionate embarrassment, in attempting to bring added pressure to bear on unions by withholding facilities to a greater extent than is already provided for in existing instructions.

Check-off

5.44 Different considerations arise in relation to the facility known as "check-off". This is an arrangement agreed with the non-industrial Civil Service unions since 1966 for Departments to deduct union members' subscriptions from pay at source, on each member's authority, and to forward them monthly to each union. Since 1974, these arrangements have formed part of the wider central Facilities Agreement. Check-off is increasingly common in the private sector, and providing it is usually regarded as advantageous to employers, particularly as it reduces the opportunities provided for militant propaganda by other methods of collection. The Group considered whether it would be feasible and desirable, in the event of industrial action, to terminate the check-off facility.

5.45 It is important to note that, under the 1974 Facilities Agreement, the Government could not, without breach of the Agreement, withdraw the check-off facility unless 12 months notice of termination had previously been given. Although the Agreement is not enforceable under domestic law, and there is no general legal obligation on employers to provide check-off facilities, the breach of the main remaining procedural Agreement with the unions, following after the termination of the Pay Agreements in 1981, would clearly have serious consequences for industrial relations in the Civil Service. There would be scope for the unions to exploit this both domestically and internationally in the ILO. (Legal advice provided in the 1981 dispute that check-off might be terminated after 3 weeks notice was given on the assumption that Ministers might be prepared to breach the 1974 Agreement and that period of notice was chosen pragmatically on the basis that it might provide reasonable time for individuals to make alternative arrangements).

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5.46 If, therefore, the Government wishes to avoid a breach of the Facilities Agreement, but wishes nevertheless to be in a position to stop check-off in the event of industrial action, the right course would be to clarify, in the context of negotiations which are already in progress on a new Facilities Agreement, that the Government would be free to discontinue check-off at its discretion in the event of industrial action. The unions might then respond by preferring to abandon check-off altogether rather than continue with check-off "on sufferance". An alternative would be for the Government to propose a discontinuance of check-off in all circumstances, but this would be difficult to justify against the background of widespread provisions of check-off facilities in the private sector.

5.47 The question then arises of whether action to discontinue check-off in the event of industrial action would be desirable. The main advantage would be to put an end to the presentational embarrassment for the Government in continuing to facilitate union subscriptions while industrial action is in progress. The Government would also disrupt the flow of funds to the unions and, although industrial action is financed separately (either by special levies or from special funds to which only part of regular subscriptions are directed), the unions would undoubtedly suffer inconvenience at a time when their administrative resources were already stretched. Against this it must be acknowledged that there would be some time lag (perhaps 3-7 weeks) before the discontinuance of check-off took effect, even if preparations were made in advance by the Government on a contingency basis. There could also be some practical inconvenience for the Government in reinstating check-off after the industrial action had ended. Finally it should be borne in mind that if the unions were to withdraw from check-off altogether this might carry some disadvantages for the Government since other methods of collection could take up staff time and provide more scope for union propaganda.

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5.48 The Group concluded that the balance of advantage was marginally in favour of being able to exercise the option of discontinuing check-off in the event of prolonged industrial action. It is therefore recommended that, as a first step, the Government should clarify in the discussions about the new Facilities Agreement that it would be free to discontinue check-off at its discretion in the event of industrial action (paragraph 5.46 above), and that subsequently the necessary preparatory work on pay computer sub programmes and other practical aspects should be put in hand on a contingency basis. It should be noted that unless a new Facilities Agreement is concluded in which the unions agree to the clarification proposed, the option of discontinuing check-off would only be available in 1982 if the Government were to decide, notwithstanding the argument in paragraph 5.45 above, that it was prepared to contemplate a breach of the existing Facilities Agreement.

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Strike Pay

5.49 The Group also re-examined the issue of whether strike pay could be made taxable. As paragraph 1.3 above explains, those who took selective action during the 1981 dispute received strike pay amounting to 85 per cent of normal salary and, since this was not taxable, most of them in fact received more than their normal salary. However, this was wholly exceptional and only possible because of the limited numbers on strike at any one time and the fact that sufficient levy income was available to support this level of payments for a lengthy period. Most trades unions pay only a few pounds per week strike pay and some no strike pay at all.

5.50 As the law stands, strike pay is not taxable; it is not within the legal definition of income for tax purposes. It would in principle be possible to legislate (in a Finance Bill) so as to make it subject to tax, but although the issue has been examined several times (although not in detail in the recent past), it has not been thought feasible and desirable to do this. The difficulties are partly general: strike pay will often be to some degree the return to a union member of his own contributions, made out of his post-tax income. Also, and perhaps more important, there would be intractable practical problems in enforcing liability. The law could require trade unions to deduct tax from payments or to report payments to the Inland Revenue, but the arrangements for handling strike pay and its distribution could well be devolved to local strike committees whose structure might be very informal and whose existence and membership might be transitory. Faced with a natural unwillingness to co-operate, the Revenue could be left with no effective sanction to impose compliance.

5.51 Despite the difficulties which have already been identified, we nevertheless recommend that the case for legislation to make strike pay taxable should be reviewed. Any legislation would, of course, need to apply generally; we can see no case for legislation which applied only to the Civil Service.

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MANAGEMENT TACTICS FOR ACHIEVING A SETTLEMENT

5.52 In addition to the various forms of management action directed against employees or unions discussed above, the Group also considered a range of management tactics for achieving a settlement, ie -

- i. unilateral implementation of a pay offer by management;
- ii. dating the pay increase from the end of the dispute rather than backdating to the normal pay award date;
- iii. offering pay increases to staff on condition that they refrain from taking industrial action; and
- iv. a management ballot of employees.

Unilateral implementation of pay offer

5.53 The unilateral implementation by management of a pay offer has on occasion been used successfully in the private sector. Experience suggests that the circumstances in which this tactic is likely to be useful are as follows -

- i. most employees are thought likely to accept the offer;
- ii. it is generally recognised that the employer is fully resolved not to increase the offer and may indeed be prevented by circumstances from doing so;
- iii. industrial action has not yet broken out or is confined only to limited unofficial action.

The tactic is unlikely to be useful where extensive industrial action is already in progress and where most employees are determined to achieve a better settlement than management has offered. The tactic is likely to be

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particularly ineffective if industrial action is selective (as has tended not to be the case in the private sector when this tactic has been used). In such circumstances most employees have the best of both worlds; they can enjoy an immediate pay increase and still look forward to the possibility that selective action by some of their colleagues (financed more easily by levies from those receiving the increase) may eventually secure an even higher increase.

5.54 A variant would be to implement the pay offer unilaterally for certain grades only. This would be worth considering if there was evidence of marked divisions of view among unions and employees. The tactic would not be useful unless the Government was confident that employees in the grades affected would acquiesce in the offer as a final settlement for them and would desist from industrial action leaving the remaining grades to fight their battle alone.

5.55 It is unlikely that unilateral implementation would have prevented or curtailed the industrial action in 1981. In 1982 a pay settlement may well have to be implemented unilaterally, if Parliament were to set aside the arbitration award, but the circumstances would then be entirely different from those discussed above.

No backdating

5.56 In pay negotiations in the United Kingdom it has become common practice, whether or not there is a dispute, to make a new pay award operative from the normal annual pay date rather than the actual date of settlement. This removes some of the pressure for bringing a dispute to an end. In the USA on the other hand pay contracts specify new settlement date and it is understood by both parties that, if agreement on a new contract is not reached by then, there is no backdating. The introduction of similar understandings for the Civil Service might be worth considering when discussions take place with the unions on the new arrangements for determining Civil Service pay following the Megaw Inquiry.

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5.57 In present circumstances however the tactic of refusing backdating may be limited in effectiveness. The main problem is that if, when the normal pay date has passed and a dispute is already in progress, management then withdraws from backdating an offer which the unions are already unwilling to accept, this widens rather than narrows the area of disagreement, and could thus tend to prolong the dispute. The tactic would probably not bring pressure on those already on strike since they would not be receiving pay for the period in any case. The crucial consideration would be the effect on those not taking industrial action. To some extent it might encourage them to press the unions harder to stop the industrial action; but it could well be destructive of the morale of those who had hitherto worked loyally.

5.58 Our conclusion is, therefore, that this tactic should be kept in mind as a possible option, bearing in mind the advantages and disadvantages, but that the more fruitful line to pursue would be to consider a change in the understandings about the operative dates of new pay awards in the discussions with the unions following the Megaw Inquiry.

Pay increases conditional on not taking industrial action

5.59 In 1981 the Law Officers drew up a scheme for making pay increases conditional on not taking industrial action. It was thought that an initiative of this kind might bring to an end industrial action which could otherwise be long drawn out. It was accepted that it was not possible, unless disciplinary procedures were applied, for management to decide unilaterally to withhold pay increases from those who had taken industrial action. It was therefore envisaged that individual staff might be offered a monthly (or weekly) pay increase on condition that they had not taken part in industrial action during the preceding month (or week); it would be possible for staff to refuse to accept the pay increase on such conditions.

5.60 The usefulness of such a tactic depends, as always, on the circumstances, which we cannot predict in advance. Its aims are, first, to give loyal staff the increase the Government is willing to pay without further delay and, second, to add to the costs of taking industrial action. It

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would be unwise to attempt such an initiative so long as the majority of the staff were thought to be supporting the union (and therefore the chances of success slight), although its implementation would mean that staff would not receive the pay increase for any month during which they had taken part in industrial action, which would thereby force them to consider the matter in terms of their own financial position. The circumstances in which it might be an appropriate tactic are much the same as those in which the unilateral implementation of a pay settlement might prove effective.

Management ballots

5.61 Experience in the private sector suggests that a ballot of employees by management may sometimes help to prevent or resolve a dispute. This could arise in the following circumstances -

- i. where there was good reason to think that union views did not reflect the views of most of their members, and of non-union employees; and
- ii. where there was a reasonable chance that the outcome of the ballot would be favourable to management, and would prevent or resolve the dispute.

The ballot would be simply about acceptance of management's pay offer but the question could also relate to other issues - for example willingness to embark on or continue industrial action.

5.62 Before embarking on a management ballot, the Government would need to assess the risks carefully; the main risks are either that the vote would be unfavourable or that, possibly as a result of union pressure, the response rate would be low. An unsuccessful ballot would undoubtedly weaken the Government's position considerably and strengthen that of the unions. The mere setting in motion of the ballot could, in certain circumstances, tend to rally the employees behind their unions as a reaction against the apparent

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attempt to undermine the unions. The balance of advantage would need to be carefully assessed at the time. An important consideration (see below) might be the time taken by the ballot; a long time-lag would make it difficult to predict the result and might prolong rather than shorten the dispute.

5.63 A review of the 1981 dispute suggests that there was no time when a management ballot would have been helpful. In 1982 the special nature of the arrangements - access to arbitration and the possibility of Parliamentary override - suggests that there is unlikely to be a place for a management ballot in the current pay negotiations. This option should however be kept in mind for future years and the practical implications have therefore been examined.

5.64 The cost of a management ballot would fall on the Government as employer. (Under the Employment Act 1980 public funds may be provided to unions for carrying out ballots for certain purposes but not for ballots to be carried out by management.) The Government would have to decide whether to carry out the ballot itself, which would involve drawing up in advance detailed plans and earmarking staff for the purpose. The alternative would be to call on a third party, such as the Electoral Reform Society (ERS). The advantages of using the ERS or some other third party would be that the ballot would be more likely to be accepted as fair and authoritative and that the Government would be saved the trouble of posting the ballot papers and counting them. On the other hand the Government would surrender some control over the arrangements (for example the ERS would probably insist on its right to approve the question) and it might seem odd for the Government to turn such a task over to a small independent organisation, thus conceding apparently that its own conduct of the ballot might not command confidence. A Government ballot might also be quicker; the ERS has estimated that a management ballot of non-industrial civil servants might take six weeks and cost £300,000.

5.65 A pre-requisite for a management ballot, whether carried out by the Government or by a third party, is up-to-date and readily accessible information about the home addresses of all staff. We have considered whether the central National Insurance records could be used for this purpose.

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There are however some serious difficulties of principle (such records have been hitherto used for national insurance purposes only except in a few very exceptional cases which have been tightly defined) and some practical limitations (up to 25 per cent of the home addresses may not be up to date because they may not have been recently contacted on National Insurance matters; there may also be difficulties in an industrial dispute in securing the co-operation of the relevant National Insurance staff). It seems therefore that a management ballot would have to rely on Departments' own records of the home addresses of their staff. The extent to which this information is available in a form which could be readily used for purposes of a ballot requires detailed investigation.

5.66 We therefore recommend that the Treasury should undertake a study, with the help of Departments, to establish the cost and feasibility of conducting management ballots in the non-industrial Civil Service; in the light of this study Ministers would then need to consider whether plans should be made to carry out such ballots on a contingency basis and if so whether the Government would undertake the task itself or call on a third party.

RESTRAINTS ON THE FREEDOM TO TAKE INDUSTRIAL ACTION

5.67 The analysis in the earlier paragraphs of this part of the report has demonstrated that there are some legal constraints on the Government's freedom to counter industrial action by its employees. The Group therefore considered a more fundamental approach under which there might be some general restriction on the freedom of civil servants to take industrial action.

Three possible routes were considered -

- i. by legislation (following the model of some other countries where civil servants are forbidden to strike by law);
- ii. by collective agreement, ie a "no-strike" or "no industrial action" agreement;
- iii. by entering into new contractual arrangements with individual civil servants.

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"No-strike" legislation

5.68 In certain countries (for example the USA and Australia) civil servants are prohibited by law from going on strike. In the USA in particular all national government employees have been prohibited from striking since 1946. Most Federal Government employees who strike can be dismissed, since this is a breach of the Oath of Allegiance which forms part of their contract of employment; and those who organise a strike can face a prison sentence if the Government seeks an injunction against the strike. This was underlined recently in the US Air Traffic Control strike when all the Controllers were dismissed. It should however be noted that the sanction of dismissing all those on strike is already available to an employer under United Kingdom law (see paragraph 5.28 above). Moreover the particular tactic adopted by the US Government under which the Controllers were given time to return to work or be dismissed, will also become available to United Kingdom employers when the Employment Bill is enacted later this year (see paragraph 5.30 above). As the analysis of the dismissal sanction in paragraphs 5.28-5.30 above shows, the inhibitions about dismissing strikers are more practical than legal. The Government would be ill-advised to dismiss large numbers of striking civil servants unless it was confident that the threat would work or that they could do without the civil servants concerned. In the recent United States case it has been necessary to recruit and train thousands of new Air Traffic Controllers at considerable cost, although the United States Government may well judge that the benefits more than offset this cost.

5.69 Leaving aside these points about the dismissal sanction, the Group also identified some major difficulties. The first problem is that in countries where the right to strike is prohibited by law it has been thought unavoidable to balance this with some assured system of pay determination involving eg indexed pay, arbitration, or statutory comparability. The Government's evidence to the Megaw Inquiry has pointed in the direction of moving away from a system of pay determination of that kind. Secondly, it is notable that legislation to prohibit Civil Service strikes has not, in the USA and elsewhere, succeeded in preventing them, particularly in recent years. Finally it should be noted that in the US Federal Civil Service there has been increasing use of the tactic of "sick out", a form of industrial action under which everyone simultaneously reports sick, disrupting the work without openly defying the law.

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5.70 The Group therefore concluded that this approach is unlikely to be worth pursuing. The only circumstances in which it might deserve further consideration would be if, following the Megaw Inquiry, the Government were to contemplate introducing for the Civil Service some assured method of determining pay which was not available to employees generally, and which might justify some restriction on the right to take industrial action.

"No strike" agreement

5.71 An alternative approach would be for the Government to enter into an agreement with the Civil Service unions which provided for no strikes or restricted in various ways the scope for industrial action. There are however several major difficulties similar to those applying in the case of "no-strike" legislation. First there would have to be an inducement in the form of assured long term pay arrangements and the price would probably be too high. Secondly, the agreement might break down on just those occasions when there was a real prospect of industrial action. Finally, there would be a continuing difficulty about preventing forms of non-co-operation which fell short of industrial action as defined in the agreement.

5.72 A variant would be to introduce a "no-strike" agreement confined to staff engaged in particularly sensitive areas of work. There are however few grades confined solely to sensitive areas of work. Moreover the work concerned can often be disrupted by industrial action outside the sensitive area in general support services and maintenance. The unions might in any case be unwilling to reach an agreement which deprived them selectively of their more effective weapons. While staff in self-contained management areas might be more willing than their unions to make such agreements, it would be likely to be only on tough conditions and at a significant cost.

5.73 The Group's conclusions were, therefore, the same as those relating to "no-strike" legislation, ie that a "no-strike" agreement would be worth considering only if, contrary to current thinking, the Government was to contemplate, following the Megaw Inquiry, some particularly advantageous and assured method of determining Civil Service pay, in return for which the unions might be expected to accept, without further inducement, some restrictions on their right to take industrial action.

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Contracts

5.74 The Group also considered whether it would be feasible to limit the scope for industrial action by civil servants not by legislation or by collective agreement but by entering into new contractual obligations with individuals. It might, for example, be made a specific condition of service that no pay was due when no work was available, or that failure to work normally as directed might lead to suspension without pay for as long as the Department chose. An offer of a new contract to all existing civil servants simultaneously would in effect be much the same as entering into a new collective agreement, and similar considerations would arise. There would need to be a deal with the union for which some price would have to be paid. The option was therefore considered of offering new contracts to new entrants to the Civil Service or to existing staff on promotion or when a salary increase was awarded.

5.75 There are however some major difficulties. It would probably not be feasible to link the new contract with a salary increase without getting back into the same problems as would arise over a collective agreement. Action confined to new entrants and promotees would however take effect only over a very long period. During this period management would have a very difficult task of dealing with staff who had markedly different conditions of service. Moreover, although it might be strictly within the law to withhold promotion unless the promotee entered into a new contract, the Attorney General has advised that this would attract justifiable criticism on the grounds that those concerned had no real alternative to accept the restrictions in return for benefits which ought to have been theirs anyway. The Group therefore concluded that it would not be feasible to attempt to make major changes affecting the scope for civil servants to take industrial action by dealing with individual contracts.

5.76 There remains a more limited question of whether it would be desirable to clarify the obligations of managers in relation to industrial action. This would have the added advantages, if it could be carried through successfully, of bearing on the particular difficulties which arise when managers support industrial action (which are a serious problem for all counter-measures, whether sanctions or contingency plans), and of being likely to be

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welcome to at least some staff in the grades concerned. The idea would be to make it clear in writing to unions and staff that, while industrial action is always a fundamental breach of conditions of service, it is particularly inconsistent with the duties of higher levels of responsibility, say at the level of Senior Executive Officer and equivalent upwards or the holder of any post with management responsibilities, and would therefore be liable to downgrading or some other penalty. There are many difficulties to be considered further about this possible approach, and it would always be a difficult matter of judgement in what circumstances it might best be opened up with the unions and staff if it were not to be counterproductive. Nevertheless we recommend that this is an approach worth further detailed study.

SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

5.77 The conclusions and recommendations in this part of the report may be summarised as follows -

- a. Temporary relief from duty (TRD) remains, as in 1981, an important sanction where staff refuse to work normally or as directed. The procedures have been modified and, when applied in certain circumstances, simplified, in the light of experience in 1981. In order to overcome the operational difficulties where local managers are themselves withholding co-operation, Departments, particularly those with numerous local offices, should consider carefully how the TRD procedures might be most effectively administered in the future and the outcome of these reviews should be reported to the standing group of officials discussed in Part 4 of this report.
- b. The option of reduced pay should be considered only in limited circumstances where the practical problems could be overcome and the use of TRD could not be justified.
- c. The use of disciplinary procedures should not be considered as a means of seeking to end widespread industrial action, although these procedures may, as in the past, be appropriately used to deal with some individual cases.

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d. The draft legislation already prepared to permit lay-off without pay should be retained as a contingency measure and its provisions reviewed from time to time in the light of experience, with a view to its speedy introduction, if necessary.

e. Until the new Employment Bill has been enacted, summary dismissal is unlikely to be a useful sanction to deal with widespread and concerted industrial action; although the new Bill will provide additional flexibility, some practical constraints will remain and the risks would have to be assessed carefully at the time.

f. Legislation to permit suspension without pay, even in circumstances where staff were genuinely willing to work normally and their work was not affected by the industrial action of others, would be a major step going far beyond the contingency legislation on lay-off at (d) above. If however Ministers were to conclude in a future dispute that the circumstances justified such a radical step, the necessary legislation could be prepared quickly.

g. Although industrial action is taken into account to some extent in judging fitness for promotion, it would be disadvantageous to management to make it a general rule that this factor should be explicitly and systematically considered as a criterion for promotion.

h. In those Departments where it would be appropriate it should be made clear to staff either immediately before or early on in the course of a period of industrial action in the future that the need to deal with backlogs of work once normal working has resumed would be given priority by management in deciding when annual leave might be taken.

i. Union facilities (other than check-off) are already withheld on particular occasions to avoid their being used in industrial action and it would be disadvantageous to go beyond this.

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- j. The Government should clarify in the discussions about the new Facilities Agreement that it would be free to discontinue check-off in the event of industrial action, and the necessary preparatory work on implementation should be put in hand on a contingency basis.
- k. The possibility of making strike pay taxable should be considered in detail by the Inland Revenue.
- l. The unilateral implementation of a pay offer is unlikely to prove an effective tactic, except in special circumstances.
- m. Consideration should be given in the discussions following the Megaw Report to the possibility of introducing an explicit provision in the new Civil Service pay arrangements that pay settlements will not be backdated if agreement has not been reached by the due settlement date.
- n. The tactic of making pay offers conditional on not taking industrial action is worth considering only in certain limited circumstances.
- o. The option of a management ballot should be kept in mind in future disputes for use in certain circumstances but there are some practical problems. The Treasury should undertake a study in consultation with other Departments concerned to establish the cost and feasibility of conducting management ballots in the non-industrial Civil Service; in the light of this study Ministers would then need to consider whether plans should be made to carry out such ballots on a contingency basis and if so whether the Government should undertake the task itself or call on a third party.
- p. The approach of "no-strike" legislation or agreements is not worth pursuing unless, contrary to current thinking, the Government were to contemplate following the Megaw Inquiry some particularly advantageous and assured method for determining Civil Service pay in return for which the unions might be expected to accept without further inducement some restriction on their rights to take industrial action.

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q. It would not be feasible to make major changes affecting the scope for civil servants to take industrial action by dealing with individual contracts. Further study should however be given to the possibility of clarifying the obligations of managers in relation to industrial action.

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PART 6: DEPARTMENTAL CONTINGENCY PLANNING

6.1 Effective departmental contingency plans are clearly important, not only to cope with the effects and limit the costs of industrial action but also as a deterrent, by showing it to be ineffective. However, it is unlikely to prove possible to identify in advance precisely how industrial action will develop in the future or even to devise adequate solutions to all of those problems that can be foreseen.

6.2 Contingency planning is clearly a matter for individual Departments and the Group has not, therefore, considered this aspect in detail. Departments are currently reviewing their contingency plans in the light of the 1981 dispute. Their main coverage has been reported to the Treasury (via the MPO).

6.3 Examples of the adjustments to plans being made by Departments are as follows. The Inland Revenue have been reviewing and streamlining their banking arrangements, to make them less vulnerable to industrial action; and are setting up a "command centre" equipped with facsimile transmission machines and direct lines to senior regional staff (this will enable advice to be given rapidly to management in the field, and will also provide senior management and Ministers with up-to-date information about developments). DHSS are considering introducing further regulations to enable them to recover emergency payments made in lieu of supplementary benefit. They are also preparing possible procedures for the payment of emergency benefit payments by other bodies, particularly local authorities. These, and other similar arrangements are geared particularly to the possibility of local offices being closed to the public for more than just a day or two.

6.4 The most important plans are to be examined rigorously in bilateral discussions between central Departments and individual Departments. Particular attention will be paid to the following aspects -

- i. The extent to which problems which arose in 1981 have been overcome;

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- ii. The limitations of the plans and, in particular the extent to which their effectiveness decreases the longer industrial action lasts;
- iii. How far they depend on the voluntary co-operation of staff or of other organisations;
- iv. How far they overcome the particularly important problem of ensuring that mail continues to be delivered to Departments (on the assumption that, as in 1981, all Post Office staff and some Government messengers would refuse to cross picket lines); and
- v. Whether sufficient account has been taken of the ways in which trade union tactics might alter in future industrial action including in particular, the possibility that other public or private sector unions might co-operate with the Civil Service unions.

6.5 Attention will be paid in these discussions to the problems which can arise in specialised areas, such as computer operations, which can be particularly difficult to overcome and where problems may differ markedly between Departments. Central Departments will also be seeking to ensure that departmental contingency plans have been formulated on a consistent basis and are compatible with each other. The opportunity will also be taken in these discussions to disseminate information about any novel or particularly effective approaches which individual Departments may have developed to problems which are likely to be common to a number of Departments.

6.6 We think it is important that departmental Ministers should be aware of the contingency planning being undertaken by their Department. We therefore recommend that at least the main points in the contingency plans of each Department should be submitted to a departmental Minister and that their attention should be drawn to the limitations of the plans and to the assumptions on which they are based. We also recommend that an assessment

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of the overall position should be submitted to the Chancellor of the Exchequer once the bilateral discussions have been completed between central and individual Departments, which will probably be by about the end of February. This might most appropriately be considered first by the standing group of officials referred to in Part 4 of this report.

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PART 7: SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

7.1 The Report's conclusions and recommendations are summarised in the following paragraphs.

Origins, nature and outcome of the dispute

7.2 Part 1 of the report describes briefly the origins, nature and outcome of the dispute. This brings out the following main points -

a. For many staff, particularly in the middle and higher grades, the dispute was less about the level of pay increase in 1981 than about the suspension and termination of the Civil Service Pay Agreements and the fact that the Government did not feel able to offer any specific assurances about Civil Service pay arrangements in the longer term.

b. Although the industrial action lasted for 22 weeks, the financial cost of the dispute to the unions and their members was modest (£24 million); this is because, after the national one-day strike on 9 March 1981, the numbers on strike (or temporarily relieved from duty because they were not working normally or as directed) rarely exceeded 5,000, less than 1 per cent of the non-industrial Civil Service.

c. While the Government largely achieved its pay objectives, which were important both for public expenditure and because of the wider repercussions on the pay round, the financial cost of the dispute to the Government was considerable (notably an additional interest cost of £0.5 billion through delayed tax revenue), and there were many other penalties, both macro-economic (eg the distortion of the monetary aggregates) and managerial (eg the deferment of taxation of unemployment benefit and the delay in computerisation of Schedule D tax).

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d. The cost to the Government would have been much greater (eg an interest cost of £1 billion rather than £0.5 billion) but for the co-operation of a small number of key staff at middle and senior management level who took on duties beyond their normal work; the availability of similar co-operation in the future may be vital.

Analysis of the problem

7.3 Part 2 of the report analyses the nature of the problem and makes the following main points -

a. If the Government is to prevent and deter industrial action in the future, and if such action occurs, to counter it satisfactorily, it must, like other employers, pursue two goals: one is to secure and retain the loyalty of at least a substantial majority of the staff; the other is to be, and be seen to be, sufficiently resolute and resourceful to withstand industrial action successfully.

b. The Government, unlike other employers, has to take into account not only its responsibilities and objectives as an employer but also its responsibility for the management of the economy as a whole. This can make it more difficult for staff and management in the Civil Service to see themselves as having the same sort of community of interest as can sometimes arise in the private sector in ensuring that a business remains viable.

c. If and when a dispute occurs, the Government may have to weigh conflicting considerations: the possibility of bringing the dispute to an earlier conclusion by increasing the cost to the unions against the risk of increasing the financial cost to the Government and worsening the disruption of services; and the short-term objective of bringing a particular dispute to a successful conclusion against the longer-term objective of improving industrial relations and thereby improving efficiency.

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d. For 1982 the unions themselves as yet have no particular plan and may hold their hand with the Megaw Report due in the summer. If there is industrial action, the most likely form is further selective strike action, although the unions' tactics may not be the same as in 1981.

Improving the climate of opinion

7.4 In order to improve the climate of opinion before and during pay negotiations and during a dispute it is recommended in Part 3 of the Report that -

a. Although the Government should continue to ensure the support of public opinion in future disputes in the Civil Service, strengthening the morale and loyalty of staff, particularly at middle management levels, is important both in avoiding disputes and, if disputes do occur, in ensuring a successful outcome.

b. On the main issues affecting morale over the next year or two (eg the 1982 pay negotiations, future pay arrangements post-Megaw, pensions, manpower, and new technology) the impression should be avoided that the Civil Service is being singled out for especially rigorous treatment, and the Government should seek to create confidence that it intends to deal fairly with its own employees.

c. Action should be taken, where possible, to improve morale in the longer term by dealing with matters unconnected with the main pay issues.

d. If a dispute occurs it is essential to have a reasoned message, supported by arguments and evidence, which can be put across persuasively to staff.

e. Public statements should also be prepared with an eye to the effect on employee opinion.

f. More use should be made of the management chain from Ministers through senior management to middle managers, to put across the reasoning behind the Government's position, and this process could also provide valuable feed-back about the development of staff opinion.

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Organisation during a dispute

7.5 On organisation during a dispute it is recommended in Part 4 of the Report that -

- a. A standing group should be set up, with the composition described in paragraph 4.5, to meet not less than once a week with a Treasury Minister as Chairman but with a senior Treasury official as Deputy Chairman under whom the Group would meet except when there was business of particular importance.
- b. The terms of reference of the group should be set out in paragraph 4.6.
- c. The group should also undertake the further work proposed in Part 5 of the Report and the assessment of departmental contingency plans proposed in Part 6 of the Report.

Management responses to industrial action

7.6 On the possible responses by management to industrial action, the group's conclusions and recommendations in Part 5 of the Report are as follows -

- a. Temporary relief from duty (TRD) remains, as in 1981, an important sanction where staff refuse to work normally or as directed. The procedures have been modified and, when applied in certain circumstances simplified, in the light of experience in 1981. In order to overcome the operational difficulties where local managers are themselves withholding co-operation, Departments, particularly those with numerous local offices, should consider carefully how the TRD procedures might be most effectively administered in the future and the outcome of these reviews should be reported to the standing group of officials discussed in Part 4 of this report.
- b. The option of reduced pay should be considered only in limited circumstances where the practical problems could be overcome and the use of TRD could not be justified.

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- c. The use of disciplinary procedures should not be considered as a means of seeking to end widespread industrial action, although these procedures may, as in the past, be appropriately used to deal with some individual cases.
- d. The draft legislation already prepared to permit lay-off without pay should be retained as a contingency measure and its provisions reviewed from time to time in the light of experience, with a view to its speedy introduction, if necessary.
- e. Until the new Employment Bill has been enacted, summary dismissal is unlikely to be a useful sanction to deal with widespread and concerted industrial action; although the new Bill will provide additional flexibility, some practical constraints will remain and the risks would have to be assessed carefully at the time.
- f. Legislation to permit suspension without pay, even in circumstances where staff were genuinely willing to work normally and their work was not affected by the industrial action of others, would be a major step going far beyond the contingency legislation on lay-off at d. above. If however Ministers were to conclude in a future dispute that the circumstances justified such a radical step, the necessary legislation could be prepared quickly.
- g. Although industrial action is taken into account to some extent in judging fitness for promotion, it would be disadvantageous to management to make it a general rule that this factor should be explicitly and systematically considered as a criterion for promotion.
- h. In those Departments where it would be appropriate it should be made clear to staff either immediately before or early on in the course of a period of industrial action in the future that the need to deal with backlogs of work once normal working has resumed would be given priority by management in deciding when annual leave might be taken.

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- i. Union facilities (other than check-off) are already withheld on particular occasions to avoid their being used in industrial action and it would be disadvantageous to go beyond this.
- j. The Government should clarify in the discussions about the new Facilities Agreement that it would be free to discontinue check-off in the event of industrial action, and the necessary preparatory work on implementation should be put in hand on a contingency basis.
- k. The possibility of making strike pay taxable should be considered in detail by the Inland Revenue.
- l. The unilateral implementation of a pay offer is unlikely to prove an effective tactic, except in special circumstances.
- m. Consideration should be given in the discussions following the Megaw Report to the possibility of introducing an explicit provision in the new Civil Service pay arrangements that pay settlements will not be backdated if agreement has not been reached by the due settlement date.
- n. The tactic of making pay offers conditional on not taking industrial action is worth considering only in certain limited circumstances.
- o. The option of a management ballot should be kept in mind in future disputes for use in certain circumstances but there are some practical problems. The Treasury should undertake a study in consultation with other Departments concerned to establish the cost and feasibility of conducting management ballots in the non-industrial Civil Service; in the light of this study Ministers would then need to consider whether plans should be made to carry out such ballots on a contingency basis and if so whether the Government should undertake the task itself or call on a third party.

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p. The approach of "no-strike" legislation or agreements is not worth pursuing unless, contrary to current thinking, the Government were to contemplate, following the Megaw Inquiry, some particularly advantageous and assured method for determining Civil Service pay in return for which the unions might be expected to accept without further inducement some restriction on their rights to take industrial action.

q. It would not be feasible to make major changes affecting the scope for civil servants to take industrial action by dealing with individual contracts. Further study should however be given to the possibility of clarifying the obligations of managers in relation to industrial action.

Departmental contingency planning

7.7. On contingency planning it is recommended in Part 6 of the Report that -

a. The main points in the contingency plans of each Department should be submitted to a Departmental Minister and his attention should be drawn to the limitations of the plans and to the assumptions on which they are based.

b. Once the bilateral discussions on the plans between central and individual departments have been completed an assessment of the overall position should be considered by the standing group of officials proposed in Part 4 of the Report, and should then be submitted to the Chancellor of the Exchequer.

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APPENDIX A

The Official Group on Lessons from the Civil Service Dispute (MISC 65) consisted of representatives of the following Departments under Cabinet Office chairmanship -

No 10 Policy Unit
HM Treasury
Management and Personnel Office
Lord Chancellor's Department
Ministry of Defence
Departments of the Environment and Transport
Scottish Office
Department of Health and Social Security
Department of Employment
Attorney General's Department
Lord Advocate's Department
Treasury Solicitor's Department
Board of Inland Revenue
HM Customs and Excise

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APPENDIX B

NON-INDUSTRIAL CIVIL SERVICE PAY DISPUTE 1981: MAIN EVENTS1980

- 1 August Lord President told CCSU (Council of Civil Service Unions) that cash limits would be main basis of non-industrial pay settlement due on 1 April 1981, and that Government wanted to see longer term changes in the pay research system.
- 27 October Lord President informed CCSU of suspension of Civil Service Pay Agreements for 1981 and that preparation of the pay research reports would be halted.
- 7 November Prime Minister announced that provision for pay in the rate support grant cash limit had been set at 6 per cent, and that in setting the other public service cash limits (including that for the Civil Service) pay would be dealt with broadly within the same financial disciplines.
- 24 November-1 December Protest meetings organised by Unions at 22 centres throughout the country, attended by 30,000 non-industrial Civil Servants.

1981

- End January Special conferences of CPSA and SPCS at which industrial action failing satisfactory pay negotiations strongly endorsed.
- 5 February CCSA submitted joint claim for increase of 15 per cent from 1 April 1981 subject to minimum increase of £10 per week.
- 9 February Lord President offered a general increase of 6 per cent.
- 23 February Lord President increased Government's offer to 7 per cent through savings to be achieved in manpower and other administrative expenditure; he also told the Unions that the Government had decided that a thorough review of the pay arrangements was needed "with the objective of establishing as soon as practicable an ordered and agreed system which took account of all relevant factors and which would command the widest possible acceptance".
- 26 February CCSU rejected offer and gave notice of industrial action beginning with a one-day strike on 9 March.
- 3 March Minister of State, CSD met Unions to discuss proposed review of the pay system and possibility of assurances about the basis of the 1982 settlement but CCSU felt that no progress had been made.
- 9 March One-day strike involving 273,400 non-industrial Civil Servants.
- 10 March Beginning of selective action involving loss of 413,000 man days by 7 August 1981 (including days lost as a result of TRD action, but excluding the one-day and half-day strikes and other protest action).

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- 1 April Half-day strike to coincide with operative date of pay award involving loss of 53,000 man days.
- 14 April Half-day strike to protest at use of naval personnel to re-equip Polaris submarine involving loss of 125000 man days.
- 23 April Lord President met Unions to offer an assurance that there would be scope for negotiations on the 1982 pay increase and proposing an independent inquiry into the longer term arrangements for Civil Service pay. Unions in reply called for genuine negotiations or arbitration in 1981; more positive assurances on the 1982 negotiations; and immediate proposals for reviewing the Pay Agreements.
- 21 May Lord President wrote to CCSU proposing further talks on the future pay system; proposal rejected by CCSU.
- 26 May CCSU proposed talks without preconditions on either side, threatening a major extension of the industrial action from 8 June unless such talks were held or there were a decision to go to arbitration.
- 29 May Lord President began talks with CCSU.
- 5 June Following consultation with Ministerial colleagues the Lord President told Unions that Government was not prepared to increase the offer of 7 per cent for 1981 and that no commitment could be offered about arbitration in 1982.
- 8 June Limited escalation of industrial action began.
- 11 June Government gave formal notice of Official Side's withdrawal from the 1974 and 1977 Civil Service Pay Agreements.
- 29 June Announcement of the independent Inquiry on Civil Service Pay.
- 17 July CSD made revised offer of increase of 7 per cent plus £30 per head from 1 April 1981 together with an assurance that there would be negotiations on the 1982 increase before cash limits were set and that failing agreement the Government would accept recourse to the Civil Service Arbitration Tribunal on the understanding that the Government had the right to ask the House of Commons to approve setting aside the Tribunal's award on grounds of overriding national policy.
- 31 July Revised offer accepted by CCSU after consultative meetings with members throughout the country by each union (230,000 attended these meetings and 67 per cent voted to settle. In the IRSF 53 per cent voted against; the remaining unions voted in favour).
- 3 August Return to work began, completed by 10 August.

43V.



Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000 // February 1982

Michael Scholar Esq
Private Secretary
No.10 Downing Street
LONDON SW1

Dear Michael

EVIDENCE FOR MEGAW INQUIRY : LOCAL PAY

I regret that in the version of the draft paper on local pay for the Megaw Committee a number of lines were left out of paragraph 15c. The sentence at the bottom of the page should run on as follows:-

"First by local market surveys, as in option b above. This approach would offer the greatest flexibility, though it would be subject to the same disadvantages as option b. Alternatively, there might be a flat rate allowance, on the lines of the present London Weighting allowance but applying to other listed large towns. This option would be a simpler but cruder form of local differentiation but would be similar to the system of provincial differentiation abandoned over 20 years ago. Either approach would have to be strictly operated, in order to resist pressure to add further conurbations to the list."

... In addition we omitted the table from Annex 4; this is now attached.

The note attached at the end of the paper headed "Note on Issues on Local Pay" is not intended to form part of the evidence to Megaw.

I am copying this letter to the Private Secretaries to members of the Cabinet.

*Yours ever
P S*

P S JENKINS
Private Secretary

11 FEB 1982



COPIED

✓ EC SV
Prime Minister I.O.

MS 11/2

Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

PRIME MINISTER

No 4 - 1/1 looks as if this offer will occur on the day that McLeath reports on ASLCT.

CIVIL SERVICE PAY OFFER 1982

You will recall that on 2 February you chaired a meeting of the Ministerial Group on Civil Service Pay Negotiations (MISC 66(82)2nd meeting) to consider the Government's offer in the 1982 pay negotiations for the non-industrial Civil Service and it was agreed that an offer should be made on the lines of Option B+ in MISC 66(82)6. I undertook to consider the tactical handling and in particular the question of what should be offered at the second meeting with the unions, now being arranged for Tuesday, 16 February, and what should be held in reserve for subsequent negotiation.

2. At a meeting of MISC 66 held today under my chairmanship (MISC 66(82)5th meeting) it was decided that the initial offer should consist of the whole of Option B+ together with the extra elements which had been approved (skill allowances, the shortage grades "kitty", improved leave, the allowance to replace luncheon vouchers, season ticket advances, and group discount for medical insurance). This amounts in practice to about 4 per cent of the pay bill although the offer will not be presented in that way and the increases will, as you know, range from nil to 5½ per cent. Within the 4 per cent cash limit there will still be room both to cover an eventual settlement on London Weighting and to offer a further ½ per cent on the pay bill, if need be, in negotiation.

/The presentation



3. The presentation of the offer next Tuesday both publicly and to the staff is extremely important, and various arrangements are being put in hand following discussion in MISC 66.

4. I am sending copies of this minute to the Secretary of State for Defence, the Secretary of State for Social Services, the Chancellor of the Duchy of Lancaster, the Secretary of State for Employment, the Minister of State, Treasury (Mr Hayhoe), Mr Ibbs and Sir Robert Armstrong.

(G.H.)

11 February 1982



Prime Minister

(2)

MUS 11/2

cf JV

SCOTTISH OFFICE

WHITEHALL, LONDON SW1A 2AU

COPY ALSO TO:

- PS/M of S
- PS/Mr Fletcher
- PS/Mr Rifkind
- PS/Mr Stewart
- PS/US of S
- PS/DAFS
- PS/SHD
- PS/CS

CONFIDENTIAL

The Rt Hon Sir Geoffrey Howe QC MP
 Chancellor of the Exchequer
 HM Treasury
 Parliament Street
 LONDON
 SW1P 3AG

MF

10 February 1982

Dear Geoffrey,

CIVIL SERVICE "SINGLE OUTSIDE ANALOGUE" GRADES

On the balance of the agreement set out in your letter of 25 January to Willie Whitelaw, I agree with the maintenance of the links between Civil Service "single outside analogue" grades and their outside comparators, although, as you recognise, it is not easy to square this with our general posture on pay comparisons.

However, I am concerned about the possible effects of containing the additional costs within existing departmental cash limits. Since the Scottish Office has a higher percentage of staff linked with SCA grades than the Civil Service as a whole the effects of maintaining the traditional links are likely to be more marked in our case than in most other Departments. While I shall do my best to contain the extra cost involved within the salaries element of the Scottish Office Administration Vote, I hope that, if necessary, you will let your officials show a little more flexibility in the interpretation of "existing departmental cash limits" than they have shown hitherto when this problem has been discussed.

I am copying this letter to the Prime Minister, other members of the Cabinet, Attorney General, the Lord Advocate and to Sir Robert Armstrong.

Yours truly,

Cherry

Civil Service
Pay

CONFIDENTIAL



✓ JV
3pm (2)

Prime Minister

Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

ms 10/2

ATTORNEY GENERAL

MEGAW INQUIRY: PAY OF GOVERNMENT LAWYERS

Thank you for your minute of 5 February. I am content with the changes to the draft evidence which you have proposed. If it is now to be a formal memorandum from yourself and the Lord Advocate it would in fact be appropriate for it to be published, and I am content with that too.

2. I am copying this minute to the Prime Minister and the other members of her group on Megaw.

(G.H.)

10 February 1982

10 FEB 1982



Prime Minister (2) *MS 11/2*

MINISTRY OF AGRICULTURE, FISHERIES AND FOOD
WHITEHALL PLACE, LONDON SW1A 2HH

3 PPS



From the Minister

The Rt Hon Sir Geoffrey Howe QC MP
Chancellor of the Exchequer
Treasury Chambers
Parliament Street
London
SW1P 3AG

10 February 1982

Geoffrey Howe

ms

MEGAW COMMITTEE: GOVERNMENT EVIDENCE ON MERIT PAY

will request if required

Thank you for sending me a copy of your letter of 2 February to Janet Young, together with a draft paper on merit pay for the Megaw Committee.

I am not sure why you think it necessary for us to put a clear statement of Government views on this question to the Committee. We do not need to have firm views on all the questions referred to the Committee; indeed if we had there would not be much point in referring them to the Committee at all. Nor do I understand why the views put forward in the paper are so different from the conclusions we reached in Cabinet when we discussed this issue on 15 January last year. You may recall that we agreed then that the possibility of introducing a performance-related pay scheme on the lines Christopher Soames had suggested should not be pursued further, and that we should consider instead the contribution to be made by accelerated promotion and better arrangements for early retirement.

I remain extremely sceptical about the value in the Civil Service context of arrangements on the lines suggested in the paper, for three basic reasons. First, it seems to me unlikely that their net effect would be to improve the average level of motivation and performance. The good performers in the public service tend, in my view, to be motivated less by money than by self-respect, the desire for the respect of their peers and the possibility of promotion. I do not think that the prospect of a lead of an extra few hundreds a year over their colleagues would make any difference to their performance. What does seem quite clear to me is that those who felt they were discriminated against in a merit pay system would be demotivated in a fairly big way. The overall effect on individual performance would therefore probably be adverse. Incidentally, if we really believed in the philosophy

/underlying the draft ...

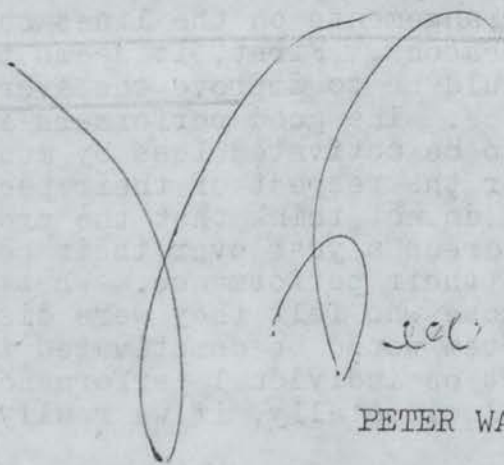
underlying the draft paper, we would surely be proposing merit pay for Ministers too? No one suggests that all Ministers on the same pay scale perform equally effectively, and their performance is even more vital to the country's well-being than that of the Civil Service. Presumably the reason why we do not suggest merit pay for Ministers is because we do not believe it would improve average performance. I believe the same to be true of the Civil Service.

Secondly, I am concerned about the effect that the introduction of a more competitive atmosphere into the Civil Service could have on the general conduct of business. In time I suspect it would make civil servants less inclined to collaborate with each other and more inclined to hoard information rather than pass it freely to colleagues, to propose initiatives simply because they would make the proposer conspicuous, and to create unnecessary work in order to appear hardworking. These adverse effects stem from the fact that there is no simple and objective way of measuring performance in the public service, as there is in commerce and industry in the shape of profit, production or turnover.

Thirdly, I am quite sure that in Civil Service conditions a system on these lines would be bureaucratic and time-consuming. Managers at all levels would have to spend a good deal of their time deciding who should be paid what. There would doubtless have to be an appeals system, adding further complication. All this would be worth while if the result were a better average level of performance, without undesirable side-effects. For the reasons I have given I do not believe this to be so.

In my view, therefore, we should submit to the Megaw Committee a neutral paper, setting out the considerations on both sides of the question and leaving it to them to advise whether to pursue merit pay further. I have little doubt that they would reach my own conclusion.

I am sending copies of this letter to the Prime Minister, other members of Cabinet and to Sir Robert Armstrong and Sir Derek Rayner.

A large, stylized handwritten signature in dark ink, consisting of several loops and a long horizontal stroke.

PETER WALKER



rus 12/2

MINISTRY OF DEFENCE WHITEHALL LONDON SW1A 2HB

TELEPHONE 01-218 9000
DIRECT DIALLING 01-218 2111/3

MO 20/17/6

9th February 1982

Dear George.

I am writing to let you know in advance of proposals which we shall shortly be putting to Ministry of Defence Trade Unions on the manning of the Clyde Base.

We have been giving considerable thought over the past few months to the lessons to be learned from last year's major non-industrial dispute. One of the most worrying features as far as we were concerned was the readiness of the Unions involved to place at risk our ability to maintain the effectiveness of the strategic nuclear deterrent force. It was brought home to us that action by relatively few Civil Servants in certain vital areas could fairly quickly, and at little cost to the Unions, jeopardise essential operational activities.

There is, of course, no practicable way in which we can make our operations invulnerable to widespread and prolonged industrial action. The many and varied activities of the Ministry of Defence depend very largely upon the support of its civilian workforce, and with its exceptional dependence on civilian support the Navy is particularly vulnerable. However, we can and must seek to avoid a repetition of our experience last year.

The Rt Hon George Younger TD DL MP



At present considerable reliance is placed upon civilian staff in the Clyde Submarine Base. In particular, the armaments depot at Coulport, which stores and processes missiles, torpedoes and other components, and which is part of the Base, is entirely civilian-manned. We, therefore, intend to reduce our present level of vulnerability in this area by the permanent substitution of Naval personnel for civilians in some key posts. In deciding the posts to be "navalised" we have worked to the following criteria:

- a. Those parts of the Base which are vital to the immediate operation of the strategic deterrent force have been selected.
- b. Within each vital area, the minimum number of posts has been selected, in order to provide a nucleus of competence to make any subsequent temporary substitution which may be necessary immediately effective and to minimise recovery time after normal work resumes.
- c. We are assuming that our senior civilian managers can be relied on to continue to work, as happened last year.

This cadre, supplemented by reinforcements who would be trained in situ, would be able to maintain the activity of the Base sufficiently to allow basic operations to continue. We should also expect that the permanent presence of a mixed-manned workforce of RN and civilians would tend, from the start, to make the Base a less attractive target for industrial action. Mixed manning of Service establishments is normal practice in many parts of the Ministry of Defence and indeed at Faslane but will be novel at Coulport.



In all we envisage switching from civilian to Naval personnel some 120 non-industrial and industrial posts at the Base, the majority of which will be at RNAD Coulport, from amongst a total of some 3,600. We should, however, at the same time propose posts for civilianisation which are at present filled by Royal Naval personnel, and there are some 57 of these, almost entirely industrials. We hope to be able to avoid redundancies and would offer alternative employment in the Clyde area to those displaced, although some redundancy cannot be ruled out.

We shall be consulting the Departmental and local Unions most fully on implementation of our plans (they are already broadly aware through discussions with local management of what is proposed) and will be writing to let them know the details of what is proposed within the next few weeks. Although we shall make it clear that there is no scope for negotiation as such on the basic principles, it may be that the details of our proposals will be amended during subsequent discussion; and implementation will be flexible. It will be made clear that this is not the first of a series of such proposals at the Base and no additional significant change is envisaged at the Base at present. This is not to say, however, that there may not from time to time be proposals for changes in the Department as a whole.

In parallel with these developments the non-industrial unions locally expressed some enthusiasm over the possibility of a "no-strike" agreement in return for a sizeable sum, although not, we believe, with any support from their departmental or national HQ. While there have been some local discussions, management's position is that this, if it ever bore fruit, would not be a substitute for mixed manning because only that will give us the degree of assurance we require. The whole question of no-strike agreements is being considered in the context of Megaw, and the unions have been told that it cannot be pursued locally at present. The industrial trade unions will not discuss a no-strike agreement.



We must expect a strong reaction to our proposals on mixed manning, and a reaction which will not necessarily be confined to the Clyde. The industrials, even if partly modified by the very tiny net reduction in jobs, undoubtedly feel that they are being unfairly penalised for an industrial dispute in which they took no part - although they, of course, took action which threatened the strategic deterrent force in 1978 and 1979. The non-industrials have worked well in the period since the 1981 strike, have shown flexibility and receptiveness on the suggested "no-strike" arrangement, and will see our proposals as a direct threat to their jobs. In considering just when to make the formal approach to the unions we shall bear in mind the position reached in the Treasury negotiations over non-industrial pay.

I am sending a copy of this letter to the Prime Minister and to Michael Heseltine, Patrick Jenkin, Norman Tebbit, Janet Young and Barney Hayhoe.

Sam ever
John

John Nott

11 24 FEBB 1984



cc Mr. Hoskyns

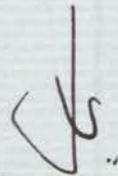
MR. SCHOLAR

P.A.
/
FWS 12/2

Evidence for the Megaw Inquiry: local pay

The draft evidence sent to you under cover of the letter of 5 February from the Chancellor's Private Secretary is a thorough and reasonably dispassionate analysis of one of the most difficult areas we have asked the Inquiry to consider. The draft indicates clear support by the Government for the principle of greater local pay differentiation, at the same time identifying equally clearly the very considerable difficulties for management in implementing geographical variation in civil service pay. Local pay determination (i.e. local pay bargaining) is not ruled out, although the balance of argument is clearly against it.

I would again advise that it would be sensible to see if other Ministers comment before troubling the Prime Minister with this. I would judge from the discussions at official level that this will not prove contentious, but if it does it could be discussed by Ministers at the same time as the paper on merit pay, which we received last week.



John Vereker

9 February 1982



gf JV
4 PP's

Northern Ireland Office
Stormont Castle
Belfast BT4 3ST

Rt Hon Sir Geoffrey Howe QC MP
Chancellor of the Exchequer
HM Treasury
Parliament Street
LONDON
SW1P 3AG

8 February 1982

Dear Chancellor of the Exchequer.

CIVIL SERVICE "SINGLE OUTSIDE ANALOGUE" GRADES

I have seen a copy of your letter of 25 January to Willie Whitelaw and I agree with your proposal to maintain the pay links between the Civil Service "single outside analogue" grades and their comparators.

Last year my officials drew the attention of the Ministerial Sub-Committee on Public Service Pay to a potential special difficulty which we might face in accommodating the cost of pay analogues within cash limits. In Northern Ireland, the pay for certain groups such as police, teachers and water workers, which in GB are administered by local authorities, are funded entirely by central government. It is too early to judge what effect this will have during the coming pay round and I only mention it now as something which still has to be borne in mind.

I am copying this letter to the Prime Minister, other members of the Cabinet, the Attorney General, the Lord Advocate and to Sir Robert Armstrong.

*Yours sincerely,
S. W. Boyd Smith*

Agreed by the Secretary of State
and signed in his absence.

111 FEB 1982



MR. DUGUID

c.c. Mr. Hoskyns
Mr Scholar ✓

last para ✓

MISC 65

Many thanks for your very helpful note of 3 February, recording suggested amendments to the MISC 65 report. Under the continuing skilled chairmanship of Peter Gregson, we finally - and with great relief on all sides - put the report to bed this morning.

All the significant discussion was on Section 5, although I did get accepted that Section 7 will contain conclusions as well as recommendations, so that a number of the useful points established in the body of the report which do not require action will still be brought out for Ministerial attention.

Taking your points in turn:

Para 5.4: We had a little discussion about the immunity of trade unions. Douglas Smith said it might not be a trade dispute, and that there had been some examples of secondary picketing. The phrase in brackets stays.

Para 5.5: I decided that these points were sufficiently well covered by (a).

Para 5.21A: I got it agreed that there would be a reference to the fact that Ministers had agreed, on Mr. Tebbit's advice, not to introduce the other variant, of lay-off for employees generally.

Para 5.23A: Yet again doing my Policy Unit fall guy act, I suggested the insertion of a reference to changing this provision at the Committee stage. Douglas Smith was heard to remark that the Policy Unit had now induced paranoia in him as a result of our various efforts on this front.

Para 5.28: I got it agreed that there would be a reference to industrial action including refusal to execute management functions.

Para 5.47: I had to fight a rear guard action to keep the present balance as it was, because others wanted the second half to outweigh the first.

Para 5.51: I think it was agreed that there should be a reference to the possibility of a ballot proposing choices carrying penalties.

Para 5.58: It was agreed to insert a reference to the benefits of the sacking of the air traffic controllers.

Para 5.59: We had a confused discussion about whether no-strike legislation would imply exemption from employment protection provisions. The answer is that it would depend on the drafting, and the text was left unchanged.

Para 5.64: We went over all this at an earlier stage: I think I recorded then that you can only enforce re-engagement on new terms as a condition of accepting entry or promotion.

There was a lot of discussion on other points, which I need not bother recording, save for the fact that there will be a substantial redraft of 5.30 on the promotion sanction, partly because I fear the present text misleads Ministers about what is possible, and that there will be a new section on strike pay, where a reluctant Inland Revenue has agreed to provide a draft on the possibility of looking again at taxing it..

Michael Scholar may wish to note that this report^x will be coming to the Prime Minister in the course of next week, under cover of a note from Sir Robert Armstrong, and will therefore be available as background to the handling of this year's Civil Service pay offer, should the going get rough.

J. M. M. VEREKER

3 February 1982

[x hence from the Civil Service
Department.]



cc. JV
AD.

Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

February 1982

David Edmonds, Esq.
Private Secretary to the
Secretary of State for the Environment
Department of the Environment

Dear David,

DOE EVIDENCE TO THE INQUIRY INTO CIVIL SERVICE PAY

Your letter of 22 January invited comments on your Department's evidence to the Megaw Committee. I am sorry to have missed your deadline of 29 January, but we do have a number of substantial comments.

.... Our detailed suggestions for changes to the paper are set out in the attached Annex. These are really self-explanatory, but it may be helpful if I explain that our main concern with the present draft of the paper is the impression it gives that there have been, and still are, real problems in recruiting the right quality and numbers of staff. For example, in paragraph 5 it is stated that "recruitment problems are most acute and persistent in London" implying that they are not easy elsewhere, even though there is a disclaimer in the next sentence. The general thrust of the evidence is that more pay is needed to meet the problems of recruitment and retention - for example, in paragraph 3 there is the statement that "it must be recognised that some of the measures proposed ... could require additional financial resources". The whole of paragraph 7 is devoted to the recruitment and retention of specialist staff. The Chancellor found this general tendency in the evidence rather disquieting. It does not accord with the present evidence on recruitment and retention generally which is that currently there is no great problem (with the exception of some specialist grades).

He would have liked to have seen in the evidence a rather more balanced assessment of the Department's present overall position on recruitment and retention. The

/comments



comments attached go some way to correct the balance, but any further changes you could make to change the tone and flavour of the paper to meet this concern would be very helpful.

I am copying this letter to Michael Scholar (No.10), Jim Buckley (Chancellor of the Duchy of Lancaster's Office), David Omand (Defence), David Clark (DHSS), Barnaby Shaw (Employment), Jim Nursaw (Law Officers' Department) Christine Duncan (Lord Advocate's Department) and David Wright (Cabinet Office).

Yours ever

Peter

P.S. JENKINS

AMENDMENTS TO DOE DRAFT PAPER OF 22 JANUARY 1982

Paragraph 3

First sentence: substitute for first 5 words:

"The pay research based pay system has at times imposed..."

and add at end of sentence:

"in such circumstances".

Second sentence: substitute for whole sentence:

"A number of the changes canvassed in this paper might lead to increases in pay in some areas. But it should be possible for these to be financed from within the total pay bill, either by offsetting savings in other directions, or by taking the additional costs into account in setting general pay rates".

Paragraph 4

Fourth sentence: delete, "The present", from beginning of sentence and substitute for, "structure inevitably limits," the words:

"arrangements have limited..."

Delete the first part of the fifth sentence from, "In those years when..." to "fallen dramatically".

Paragraph 5

Substitute for "becomes competitive" in first sentence of DOE's revised paragraph the words:

"comes under pressure".

Delete from the final sentence the word, "current".

Paragraph 6

In first sentence, third line substitute for, "which", the words:

"in periods when these".

Paragraph 7

Substitute for second sentence:

"It is here that particular problems have been experienced as a result of the characteristics of the pay structure, even when the general position on recruitment and retention is satisfactory".

In third sentence, substitute for "makes", the words:

"has made".

In first sentence of sub-paragraph b, substitute for first 3 words:

"there has also been".

In sub-paragraph c, line 2, insert before "great":

"there can be".

In sub-paragraph c, line 4, for "wastage rates are" substitute:

"wastage rates have been".

Paragraph 8

Substitute for second sentence:

"At the same time consideration would need to be given to whether other groups were being correspondingly overpaid".

Paragraph 9

Substitute in third sentence:

"Indeed the lack of any detailed information about the figures which underpinned negotiations under the pay research system left staff in some doubt about the relative weight that was given... " etc.

Paragraph 12

Substitute for first line:

"Skill or commitment allowances. At times of recruitment difficulty there might be scope in some areas for attaching..."

Paragraph 13

Add at end of third sentence:

"while the weaker jobs in a grade would command correspondingly less pay".

Paragraph 15

Substitute for first sentence from line 4 onwards:

"work were assigned pay 'budgets' with provision to vary the rates paid to individual members of staff, within centrally prescribed guidelines, according to merit or job weight".

Paragraph 16

Substitute for final sentence:

"The cost would increase at times when particular specialisms were in short supply, but would decrease at times of relatively easy recruitment and retention".

Paragraph 17

Delete from second sentence:

"in present circumstances".

In fifth sentence, substitute for "is often":

"has often been".

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PART 9 ends:-

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PART 10 begins:-

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