PREM 19/1278

MT

PART 1

Confidential Filing

Wages Councils

Review of the Fair Wages Resolution

INDUSTRIAL POLICY

MARCH 1980

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
30.3.82 — Pt Ends —							

PREM 19/1278

PART 1 ends:-

JV to AW 30.3.82

PART 2 begins:-

MCS to Employment 1.4.82

TO BE RETAINED AS TOP ENCLOSURE

Cabinet / Cabinet Committee Documents

Reference	Date
L(82) 6th Meeting, item 3	17/02/1982
L(82) 41	12/02/1982
E(82) 2nd Meeting	26/01/1982
MISC 14(82) 1st Meeting	20/01/1982
E(82) 5	20/01/1982
MISC 14(82) 1	15/01/1982
E(82) 3	13/01/1982
E(81) 127	06/12/1981
E(81) 14th Meeting, item 2	08/04/1981
E(81) 40	03/04/1981
E(81) 8th Meeting, item 2	24/02/1981
E(81) 19	11/02/1981
E(EA)(80) 21st Meeting, item 2	10/11/1980
E(EA) (80) 9th Meeting, only item	13/05/1980
E(EA)(80) 21	09/05/1980

The documents listed above, which were enclosed on this file, have been removed and destroyed. Such documents are the responsibility of the Cabinet Office. When released they are available in the appropriate **CAB** (CABINET OFFICE) CLASSES

Signed J. Gray Date 23/9/2013

PREM Records Team

Ind Pol 1

MR. WALTERS

c.c. Mr. Hoskyns
Mr. Scholar

Wages Councils

I am sure you will wish to see the attached letter from Norman Tebbit to the Chancellor outlining what he proposes to do about Wages Councils - which is not much. If you have any comments, we could ask Michael Scholar to feed them in. Meanwhile, you might like to know that Norman Tebbit was asked at Question Time this afternoon if he would take steps to remove from the ambit of Wages Councils people under 18 years of age; he replied to the effect that he entirely agreed that excess wages for the young put people out of work, and that he would certainly give serious consideration to how he could stop Wages Councils having this effect, as well as discouraging young people from taking up new jobs.

J. M. M. VEREKER

30 March, 1982.

LJV

Prime Minister (2)

Caxton House Tothill Street London SW1H 9NA

Telephone Direct Line 01-213 6400

Switchboard 01-213 3000

GTN 213

MLS 30/3

MF

we are in breach.

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

What happens if
who decides us?
By what procedure?
MF

29 March 1982

D Geoffrey.

WAGES COUNCILS

Following your letters of 5 and 19 February I thought it would be useful to summarise, for the benefit of colleagues on E Committee, the position reached on wages councils.

At the meeting of E Committee on 26 January I was invited to consult the Attorney General about the possibility of excluding young people and part-time workers from the scope of the wages council system. Colleagues will have seen the subsequent correspondence with the Attorney General and the advice contained in his letter of 24 February that the exclusion of young people and part-timers (or small firms, as subsequently suggested by Patrick Jenkin) would be likely to be held to be a breach of our obligations under International Labour Convention 26. The position appears to be rather different in agriculture, and no doubt colleagues responsible for the Agricultural Wages Boards will be considering that.

So far as the Wages Council are concerned, we can free ourselves from the constraints of IL Convention 26 by denouncing the Convention in the summer of 1985. At that point all options would become open, including the option of scrapping the system altogether. In the meantime we should make it clear to critics that our freedom of action is at present inhibited by international obligations. But I do not think we should publicly commit ourselves to any particular course of action in 1985.

For the time being, the options for useful action are very limited. We shall in any case want to continue to concentrate attention and effort on an intensified campaign to talk down the level of pay increases across the economy as a whole, with particular emphasis on the relationship between pay and jobs for young people. I believe that we are

beginning to get the message across, and in the wages councils sectors there are signs that the Young Workers Scheme is having some influence on youth differentials. And as independent members of the councils come up for re-appointment we are doing what we can to improve the field of choice.

Beyond that, one possibility would be to seek to use the procedures of the Wages Councils Act 1979 to abolish the two retail councils (which cause the most criticism) on the grounds that they are not necessary for the maintenance of reasonable standards of pay in retailing. A sustainable case would need to be established. Objections to such a proposal would be inevitable and the statutory procedures would require me to refer them to ACAS for independent investigation and report. The final outcome might well be unhelpful. Nonetheless this idea might be worth exploring on a tentative and confidential basis with a few leading employers and employers' associations in retailing.

Of options which would require legislation, my proposal in E(81)127 was that I should take power to prevent new statutory minimum rates for 16 and 17 year olds rising above a specified percentage of the relevant adult rate. When we discussed this on 26 January the Committee were firmly of the view that this would draw the Government too closely into detailed decisions about appropriate rates for young persons. The only other option which seems to be worth considering further would be to amend the 1979 Act so as to place a statutory obligation on wages councils, in setting rates, to take account of capacity to pay and of the implications for jobs. This has been considered and rejected before; but it seems to me that such an obligation might have useful declaratory force, and would be a step in the right direction. It should not cause difficulties with IL Convention 26. On the other hand I recognise that a legislative amendment of this kind would no doubt attract more awkward and far-reaching amendments from both sides of the House, and it would certainly fall a long way short of what some of our supporters would be seeking. If enacted, it would doubtless lead to complaints to Government and to the courts that the duty had not been properly discharged by particular councils in particular cases; and I am copying this letter to the Attorney General for any comments he might have on that aspect. I would welcome the views of colleagues on these proposals with a view to discussion in E Committee.

I am copying this letter to the Prime Minister and other members of E Committee, to the Attorney General and the Secretary of State for Scotland and to Sir Robert Armstrong.

Yours Norman


30 MAR 1982

CONFIDENTIAL

Ind. Policy

FILE

B/C J. VEREKER

10 DOWNING STREET

From the Private Secretary

8 March 1982

Section 28 of the Public Passenger Vehicles Act 1981

The Prime Minister was grateful for your Secretary of State's minute of 2 March about the repeal of Section 28 of the Public Passenger Vehicles Act 1981.

Subject to the views of colleagues, the Prime Minister is content with your Secretary of State's proposal that the best course of action would be to defer a decision on the method of affecting the repeal of Section 28 until the Summer, by when a decision will have been taken on the future of the Fair Wages Resolution.

I am sending copies of this letter to the Private Secretaries to the other members of E Committee and to David Wright (Cabinet Office).

M. C. SCHOLAR

Anthony Mayer, Esq.,
Department of Transport.

CONFIDENTIAL

RM.

s/c IV AD

(1)

Prime Minister

CONFIDENTIAL

Agree, subject to colleagues, to X?

Yes MT MCS 5/3

Prime Minister

SECTION 28 OF THE PUBLIC PASSENGER VEHICLES ACT 1981

E Committee on 30 November 1981 invited the Secretary of State for Employment and me jointly to consider the future of Section 28 of the Public Passenger Vehicles Act 1981. For the bus industry this Section is a legislative expression of the intentions underlining the Fair Wages Resolution (FWR). It requires public service vehicle operators to pay wages not less favourable than the general level in the industry. In cases of dispute the Section affords unions unilateral access to arbitration.

Norman Tebbit and I agree that this Section should be repealed. The question remaining is how to achieve repeal with the minimum of fuss and controversy.

As I see it, we have two choices. Either we can provide for the removal of Section 28 in one of the Bills I have recommended for next Session, or wait for it to become ineffective because of the abolition of the FWR. Norman Tebbit has already embarked on moves to achieve the latter. Waiting for the abolition of the FWR would mean a delay of 18 months or so before giving effect to our wishes for the abolition of Section 28. Although it is not causing us any problems at the moment, it might be thought that speedier action is desirable. The Legislation path would probably mean abolition within 12-15 months. I have to say, however, I have some doubts about this course because main legislation will involve the danger of highlighting the existence of this little known section and might cause more trouble with the unions than would really be worthwhile.

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I suggest, therefore, that we might best defer a decision on the method of effecting the abolition of Section 28 until the summer, by when we shall have taken a decision on the future of the FWR.

I am sending copies of this to Norman Tebbit and other colleagues on E Committee and Sir Robert Armstrong.

DAVID HOWELL

2 March 1982

CONFIDENTIAL

2F

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Ind Pol (2)

Prime Minister

MCS 25/2

24th February 1982

LCO AD

The Rt.Hon.Norman Tebbit, MP
Secretary of State for Employment
Caxton House, Tothill Street, SW1

WAGES COUNCILS

Thank you for your letter of 10 February about Wages Councils and our obligations under International Labour Convention 26. I have also seen Geoffrey Howe's letter of 5 February and Patrick Jenkin's of 16 February and I have looked at the minutes of the 'E' Committee discussion to which you refer.

The Convention envisages that minimum wage-fixing machinery is to be applied to trades or parts of trades (where no arrangements exist for the effective regulation of wages by collective agreement or otherwise and wages are exceptionally low). I do not consider that the wording is apt to enable complete exclusion, irrespective of the trade or part of trade, of young persons or part-time workers. I think the same is the case in relation to excluding small firms. The wording suggests application sector by sector and not that there can be exclusions within a sector by reference to particular undertakings, occupations or categories of persons. In this respect, the contrast with Convention 99 concerning minimum wage fixing machinery in agriculture, which specifically allows such choice of application, is to be noted.

I have sought to test this conclusion against the practice adopted in other comparable countries which have ratified the Convention. Your Department has kindly supplied me with certain information; the accuracy and completeness has not been checked and in the time available the picture is

/necessarily

necessarily incomplete. However, on the basis of this information, the following facts appear to emerge:

Young persons

Our Western European neighbours provide for a fixed percentage of the minimum wage to be paid to young workers. I have no information suggesting any precedent for complete exclusion.

Part-time workers

Generally, part-timers are entitled to their proportion of the minimum depending on hours worked, although I notice that the Netherlands has apparently excluded altogether those who work less than one third of normal working hours (I am not aware of the circumstances in which this exclusion was adopted).

Small firms

I see, on the information supplied, no precedent for a blanket exclusion of small firms (the nearest is the position in Belgium where "family firms" usually employing only relatives of the employer are excluded).

Other means of excluding particular workers

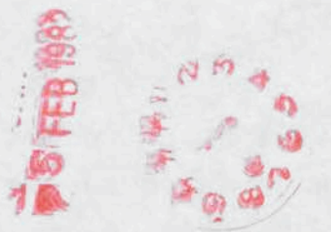
It would appear that it is precedented to allow the Government on application either to exclude particular firms from having to pay the prescribed minimum or at least to pay reduced minima; in Luxembourg a temporary exemption appears to be possible for economic and financial reasons and in Japan an employer may apply for authorisation not to pay the minimum rate to part-time or probational workers or those under training. (I do not have the full details in either case).

/It may

It may be easier to apply broader exclusions when first making provision to comply with the Convention than it would be to change the law so as to derogate from existing observance of the Convention. I do not believe that HMG could now exclude altogether from the scope of Wages Councils Orders young persons, part-time workers, or small firms without attracting a complaint of breach of the Convention and a likely adverse report.

I am copying this letter to the Prime Minister and other members of 'E' Committee, and to Sir Robert Armstrong.

MICHAEL HAVERS


8 FEB 1989

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JFF50

DEPARTMENT OF INDUSTRY
ASHDOWN HOUSE
123 VICTORIA STREET
LONDON SW1E 6RB
TELEPHONE DIRECT LINE 01-212 3301
SWITCHBOARD 01-212 7676

Secretary of State for Industry

16 February 1982

The Rt Hon Norman Tebbit MP
Secretary of State
Department of Employment
Caxton House
Tothill Street
LONDON
SW1N 8NA

Dear Norman.

Thank you for sending me a copy of your letter of 10 February to Michael Havers asking whether we could take youngsters or part-timers out of the scope of Wages Councils without breaching our international obligations.

2. I wonder if we could get over some of the legal difficulties which you foresee and still partly achieve our objectives by exempting small firms from the Councils. This possibility was mentioned briefly in our discussions in E. However a small firms exemption might fit in more happily with the wording of the Convention. There is also a strong case on merit for such an exemption.

3. While the Councils are a burden on businesses of all sizes they are, in my experience, a particular bane for small firms who are least able to cope with the associated bureaucracy. As a demonstration of the Government's concern for small businesses, exemption would have a value out of all proportion to its real economic significance.

4. Of course exemption would lay us open to the charge that we regard employees of small firms as in some way second-class citizens. However, this sort of criticism did not deter us from substantially relaxing the unfair dismissal rights for firms with 20 employees or less. We could point out that formal collective bargaining arrangements (for which Wages Councils are a proxy in their industries) are less prevalent in small firms and less necessary. Groups of, say, 5 or 20 employees can bargain on

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/equal

equal terms with their proprietor who, no less than his employees, is at the mercy of the local labour market; in particular he must have regard to the prevailing rates of pay set by larger firms in the neighbourhood if he is to attract suitable staff.

5. If necessary, a small firms exemption could be made more easy to defend by varying the exemption limit according to the individual circumstances of the trade or industry concerned. And as a fallback position we might also consider limiting the exemption to employees with less than 2 years service - in line with the unfair dismissal exemption. We could then argue with conviction that the two provisions together:

(i) help new firms to start up without being unduly hampered by formal labour legislation; and

(ii) make unemployed people with no experience in the trade concerned more attractive to take on.

I would suggest that the latter consideration will loom larger as the numbers of long-term unemployed (adult and young people) grow.

6. Finally, even if we decide against a small firms exemption thre is a strong case for your seeking the Attorney-General's advice on the legal position under the ILO Convention. It may turn out that we cannot exempt small firms under the Convention. If so, this would be a useful piece of ammunition for us to use against criticisms from small firms. In any event it would enable us to say that we had seriously considered the options.

7. I am sending copies of this letter to the other members of E Committee, to Michael Havers and to Sir Robert Armstrong.

Yours ever

Patrick

Prime Minister (2) Ind Pol SC JV AD

MES 11/2

Caxton House Tothill Street London SW1H 9NF
Telephone Direct Line 01-213 6640 GTN 213
Switchboard 01-213 3000

The Rt Hon Sir Michael Havers QC MP
Law Officers Department
Attorney General's Chambers
Royal Courts of Justice
LONDON
WC2A 2LL

10 February 1982

Dear Michael,

I am writing to seek your advice on an issue raised in E Committee.

One of the constraints on the free working of the labour market which E Committee has been examining is the wages council system, through which statutory minimum rates of wages and other entitlements are set for about 2¾m people, mainly in the retailing, catering, clothing and hairdressing trades. Repeal of the relevant legislation, the Wages Council Act 1979, is inhibited by, inter alia, International Labour Convention 26, to which we have been signatories since 1929 and which, under ILO procedures, we cannot denounce until 1985. The Act meets our obligation under this Convention to "create or maintain machinery whereby minimum rates of wages can be fixed for workers employed in certain of the trades or parts of trades ..... in which no arrangements exist for the effective regulation of wages by collective agreement or otherwise and wages are exceptionally low".

However, whilst it seems clear that we would be in breach of our obligations under the Convention were we to repeal the Act and abolish the system, members of E Committee felt that it might be possible to amend the scope of the legislation without being held in default. The specific proposal under consideration, on which I should be grateful for your opinion, is to amend the 1979 Act to remove from scope all young people under the age of 19, or under 21 or 22, (or any variants of such changes). In addition, I have been asked to consider whether part-time employees could similarly be excluded from the scope of the system. The issue is of considerable importance since it is estimated that part-timers account for more than 34% of workers covered by the wages councils, and young people under 18 about 7%.

My Department's view hitherto has been that exclusion of these two groups of workers from the protection of the minimum wage machinery would appear to be incompatible with our obligations under IL Convention 26. Article 2 does allow us, after the specified consultations, to exclude certain "trades or parts of such trades" from the application of the minimum wage machinery. My Department questions whether "parts of trades" could be defined by reference to the age of the workers or the number of hours worked. It might be held that the nature of a trade or part of a trade is not altered by the fact that some employers may choose to employ young people or part-timers in it. In this respect the different wording of Article 1.2 of Convention No. 99 concerning minimum wage fixing machinery in agriculture, which leaves Members free to decide "to which undertakings, occupations and categories of persons" the machinery shall be applied, may be relevant.

... I enclose copies of IL Convention 26; the related Recommendation 30 concerning the application of minimum wage fixing machinery; and Convention 99 concerning minimum wage fixing machinery in agriculture. Apart from the strictly legal issue there are, of
... course, wider international considerations and I attach as well a background note on the wages councils. My officials can provide yours with any further information that you may need.

I am copying this letter to members of E Committee, and to Sir Robert Armstrong.

J B SHAW

CONFIDENTIAL

CK/IV
AD

(2)

Prime Minister

MLS 8/2

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

5 February 1982

The Rt. Hon. Norman Tebbit MP
Secretary of State for Employment

Dear Norman

WAGES COUNCILS

Unemployment will inevitably be a major theme of debate at Budget time, and we must be prepared for a good deal of pressure to take yet further action of various kinds. We must take a firm line in defence of our basic economic course as the only one sensibly available, and I envisage dealing with the matter fully in my Budget speech. I believe however that it would be helpful if I could take that opportunity of announcing, as a further example of our readiness to take robust measures that are truly relevant, the changes in respect of Wages Councils which E Committee (on 28 January) was disposed to make.

I recognise that the action then remitted to you entailed further consultation with colleagues, particularly the Attorney General; but I very much hope that this could be pursued in a timescale which would maintain the possibility of an announcement on 9 March. I should be grateful if you could keep me in close touch with progress.

I am sending copies of this letter to our colleagues on E Committee, the Secretary of State for Social Services, the Attorney General, Sir Robert Armstrong and Mr Ibbs.

Yours ever,

GEOFFREY HOWE

Geoffrey

Ind. Pol.

10 DOWNING STREET

Prime Minister

Michael.

Employment

Message from ~~Education~~:-

The definition of a young person is under 18. They constitute 7% or 8% of the field covered by Wages Council.

Chris.

26/1/82

HOME OFFICE
QUEEN ANNE'S GATE
LONDON SWIH 9AT

25th January 1982

Dear Mr Scholar,

ECONOMIC STRATEGY

The Home Secretary very much regrets that he will be unable to attend the meeting of the Economic Strategy Committee on Tuesday 26th January. He has had a long-standing engagement to chair a meeting of the Police Advisory Board.

I should be grateful if you could convey the Home Secretary's apologies to the Prime Minister on this occasion.

A copy of this letter goes to David Wright.

Yours sincerely
John Fields

J. E. FIELDS
Assistant Private Secretary

M. Scholar Esq.

25/1

P.0631

PRIME MINISTER

Wages Councils
(E(81)127 and E(82)3)

BACKGROUND

When the Commitee last considered Wages Councils in April 1981 (E(81)14th meeting), they agreed that legislation should not be introduced to abolish Wages Councils, or to provide for the exclusion from their scope of particular categories, but that the then Secretary of State for Employment should press ahead with reducing the number of Councils and with improving the system; the problem of narrow differentials between rates of pay for young people and for adults was noted in particular.

2. Since then the number of Councils has been further reduced (27 compared with 33 last April and 49 in 1971), although the number of workers covered ($2\frac{3}{4}$ million) has changed little in recent years. In E(81)12) the Secretary of State for Employment has reconsidered the options, has confirmed the earlier conclusions but has proposed action over narrow youth/adult pay differentials. The Wages Councils Act 1979 would have to be amended so that the Secretary of State could prevent councils from increasing statutory minimum rates for 16 and 17 year olds if the increases would leave them above a given percentage of the relevant adult rate, as specified from time to time by order. The Agriculture Ministers would need to consider whether to take any parallel action in respect of the Agirultural Wages Boards.

3. The CPRS paper, E(82)3, points to some objections to this proposal - that the limits for each trade would be arbitrary and difficult to set and that the effect might be to increase some adult Wages Council rates rather than reduce youth rates. The CPRS suggest reconsideration of abolition or reform of the Councils in the context of a package of labour market measures; if abolition is not thought feasible, they favour either the removal of the Council's powers to fix minimum pay, subject to safeguards, or the exclusion of youth rates from the Councils' control.

4. In his minute to you of 18 January the Chancellor of the Exchequer accepts that early abolition of Wages Councils is ruled out by ILO considerations but expresses some doubts about the Secretary of State for Employment's proposals because of the risk of upward pressure on adult rates. He favours removing young people and part-time workers from the scope of the Councils and also asks for consideration to be given to other ways of limiting their possible damage - a more rapid reduction in the number of Councils, the selection of independent members who would give more weight to market factors, and a right of appeal to the Secretary of State for Employment on the grounds that employment would be adversely affected by wages council decisions.

MAIN ISSUES

5. The main issues for discussion are:

a. whether it is right to confirm the earlier decision not to abolish Wages Councils;

b. if Wages Councils are to be continued, whether:

i. the Secretary of State for Employment's proposal about youth/adult differentials should go ahead, or

ii. one or more of the other approaches suggested by the Chancellor of the Exchequer and CPRS should be adopted.

Whether to abolish

6. It has been generally accepted that the Councils serve little purpose and place some administrative burden on small firms. In principle such arrangements might be expected to cause wage rates in the industries concerned to be higher than they might otherwise be if left to market forces, and thus to reduce employment, although, as the Chancellor concedes, the practical effect is probably only marginal. The main arguments against taking action are:

a. Wages Councils are seen, rightly or wrongly, as a safety net to protect the low paid; abolition would stimulate controversy out of proportion to the benefits.

b. The opportunity to abolish Wages Councils without conflict with our ILO obligations does not arise until June 1985, taking effect a year later.

c. The Agricultural Ministers have hitherto favoured retention of the Agricultural Wages Boards as being in the interests of both farmers and farmworkers, and as tending to inhibit the power of agricultural unions; it might be difficult to justify abolishing the Wages Councils while retaining the Agricultural Wages Boards.

7. If the Committee considers that abolition now is not feasible they might nevertheless want to keep open the possibility of action during the next Parliament when the opportunity to denounce the relevant ILO Convention is available.

Youth/adult differentials

8. If abolition is ruled out, for the time being at least, the Committee will then want to consider the Secretary of State for Employment's proposal for dealing with youth/adult differentials. As he points out, the Government has been particularly concerned, in the Young Workers Scheme and in other ways, to improve employment opportunities for the young and in particular to provide an employer with some financial incentive to take on young workers with no previous training or experience. Will the proposal materially assist these efforts?

9. The first question is whether the youth rates provided by the Wages Councils contribute significantly to the narrowing of youth/adult differentials. The evidence in Annex B, Appendices 1 to 3 suggests that except perhaps in one or two trades such as laundries the Wages Council rates for 16 year olds and 17 year olds tend not to be significantly higher, as a percentage, than in many other employments and in several other European countries. Comparison with the earnings limits under the Young Workers Scheme suggests that the Wages Council rates are higher in three trades for 16 year olds and four trades for 17 year olds.

10. The Secretary of State's paper concedes that the imposition of restrictions on youth rates raises some difficult issues of principle and some practical

problems. The Committee may feel that the major difficulty is that the Government would for the first time need to take a view itself on the maximum percentage which a youth rate should represent of the adult rate in various trades. Should the Government interfere in this aspect of wage determination in the private sector, in those trades which happen to be covered by Wages Councils? If the Government does interfere, how does it justify the choice of particular percentages, bearing in mind, as Annex B, Appendix 2 shows, the wide existing variation between trades (for example hairdressing 48 per cent, laundry 80 per cent)? A further difficulty to which the Chancellor of the Exchequer and the CPRS have drawn attention is that a restriction on the proportion which youth rates may represent of adult rates may tend to push adult rates up rather than keep youth rates down.

11. If these proposals were to go ahead, the Agricultural Ministers would need to consider whether analogous action should be taken under separate legislation in respect of youth rates covered by the Agricultural Wages Boards. They are likely to take the view that it would be difficult to act on the Wages Councils alone and leave the Agricultural Wages Boards unaffected. On the other hand they may see some objection to the Government's becoming involved in this way in the agricultural wages machinery.

12. In general the Committee will have to judge whether the benefits to be gained from assisting, albeit perhaps marginally, with the problem of youth/adult differentials outweigh both the difficulties of principle and the practical problems or whether one of the other approaches to reform of the Wages Councils would be preferable.

Exclusion of young people and part-time workers

13. Both the Chancellor of the Exchequer and the CPRS favour reforming the Wages Councils by excluding young workers from their scope; the Chancellor would favour the exclusion of part-time workers also. A proposal on these lines was considered in the report discussed by the Committee in April 1981 (E(81)40). In the discussion last April a decisive objection was that legislation would be required. This consideration applies equally to Mr Tebbit's current proposal. It was however argued additionally that removing the protection of the Wages Council system from young people altogether (as opposed to limiting this

protection by means such as Mr Tebbit is now suggesting) might, like abolition of the Councils, involve denunciation of the ILO Convention. The Chancellor doubts (para 4 of his minute) whether this would be the case. The Committee will need the Secretary of State for Employment's advice on this point, after consulting the relevant experts. A subsidiary question is whether some safeguarding arrangements of the kind envisaged by the CPRS would meet this difficulty and, if so, whether such arrangements would be workable.

Removal of powers to set enforceable minimum rates

14. One of the options favoured by the CPRS and considered last year in E(81)40, Annex A, would be to remove from Wages Councils their power to make enforceable orders; instead they would fix voluntary recommended rates of pay and individual employers would be able to take account of these recommendations when setting their own pay rates. It is generally accepted that this measure, by itself, would be tantamount to abolition of the wages council system. The CPRS therefore propose in paras 7 and 8 of their paper a system of safeguards under which Wages Council members would not only provide an advisory and conciliation service rather like ACAS, but would also monitor abuse with provision for diputed cases to go before the Central Arbitration Committee under the Employment Protection Act. These arrangements would have the advantage of avoiding the rigidity of the present Wages Council system. They might however place a much greater burden of detailed work on the Councils. The Secretary of State for Employment will need to advise the Committee on whether he considers these safeguarding arrangements would be workable at reasonable cost.

Other suggestions for reform

15. In para 3 of his minute the Chancellor of the Exchequer lists three possible other reforms:

i. more rapid reduction of the number of Councils;

ii. giving greater weight to the need for an appreciation of market and employment factors in selecting independent members;

iii. a right of appeal to the Secretary of State on the grounds that employment will be adversely affected by particular wages council decisions.

16. Suggestions i. and ii. raise no difficulties of principle and Mr Tebbit will no doubt comment on what action is feasible in the near future. Suggestion iii. has similarities to the proposal referred to at para 2(d) of Mr Tebbit's latest paper (E(81)127) for imposing a duty on the councils to set rate to maximise employment. It has hitherto been argued that proposals of this kind are unworkable since it is not possible to predict with sufficient certainty the employment consequences of any particular rate of pay and Wages Council decisions would become open to legal challenge in a difficult and uncertain legal area. It will be for Mr Tebbit to put these points to the Committee.

Labour market package

17. In para 10 of their paper, E(82)3, the CPRS suggest that any action on Wages Councils would stand a better chance of acceptance as part of a balanced package of labour market measures of the kind being considered in MISC 14. You may want to ask Mr Ibbs to give the Committee some indication of the work which is in hand in MISC 14, following its meeting on 20 January.

HANDLING

18. After asking the Secretary of State for Employment to introduce his paper, and inviting contributions from the Chancellor of the Exchequer and Mr Ibbs, you may wish to divide up the discussion by concentrating on the following issues in turn:

i. Is early abolition of Wages Councils to be ruled out?

ii. Failing that, is the best way of reforming the Councils to adopt the Secretary of State for Employment's proposal to take powers to control youth/adult wage differentials?

iii. If not, should some other reform be adopted, ie

- exclusion of young people and part-time workers from Wages Councils, possibly with a safeguard
- removal of powers to set enforceable minimum rates, together with safeguarding arrangements as proposed by the CPRS
- other possibilities discussed in paras 15 and 16 above.

CONCLUSIONS

19. You will wish to reach conclusions in the light of the discussion, on the issues listed in the preceding paragraph. If the Committee accepts the Secretary of State for Employment's proposal in E(81)127, he will need to be authorised to open consultations with a view to introducing primary legislation to amend the Wages Council Act 1979.

RS

P L GREGSON

25 January 1982

P.0633

PRIME MINISTER

FAIR WAGES RESOLUTION

E(82)5

BACKGROUND

In E(82)5 the Secretary of State for Employment recommends that he should start consultations in the Spring with a view to the abolition of the Fair Wages Resolution which requires employers tendering for public sector contracts to pay wages in line with those paid for comparable work in the locality. If the consultations confirmed the case for abolition, the next step would be to denounce, in the year starting September 1982, the International Labour Organisation (ILO) Convention 94. Abolition of the FWR would take place one year after this denunciation.

2. With the exception of the Secretary of State for Northern Ireland, Ministers supported the Secretary of State for Employment's proposals which were first set out in his minute to you of 10 December. The Home Secretary and the Secretary of State for Industry were concerned that the consultations should be widespread and thorough; the Secretary of State for Employment assured them that this would be so.

MAIN ISSUES

3. The case for abolition is that:-

(i) the FWR is inconsistent with Government policy on the determination of pay and conditions - as reflected in the repeal of Schedule 11 of the Employment Protection Act 1975;

(ii) although currently there are relatively few claims and awards under the FWR this could change;

(iii) ILO Conventions are open to denunciation at ten year intervals and if the September 1982-83 slot is missed there will not be another chance until 1992.

4. The Secretary of State for Northern Ireland's fears are that, since the FWR is not a problem currently, it may be a mistake to seek an unnecessary fight with the unions and others over its abolition. He has suggested that it might 'risk stirring up the emotive issue of low pay'. He advises of the need to take careful account of possible criticisms from some of the Government's own supporters in Parliament. For these reasons he asked for collective discussion.

HANDLING

5. After the Secretary of State for Employment has introduced his paper you will wish to ask the Secretary of State for Northern Ireland to put his points to the Committee. You might then wish to hear, in particular, the views of the Chancellor of the Exchequer and the Secretaries of State for Industry, the Environment and Social Services.

6. The question is whether action should be taken now or whether, because there could be a major row over a currently largely dormant issue, it would be better to do nothing and so leave the present arrangements to stand for ten years further. As the Secretary of State for Employment points out at the end of his paper it would of course be open to the Committee to review the Government's intentions in the light of the consultations.

CONCLUSIONS

7. You will wish to record the Committee's decision on whether the Secretary of State for Employment should go ahead with consultations on the abolition of the FWR.

PLG

P L GREGSON
25 January 1982

25/1

CONFIDENTIAL

Qa 05787

To: MR SCHOLAR

From: J R IBBS

25 January 1982

Fair Wages Resolution: E(82)5

1. In his memorandum, the Secretary of State for Employment argues for abolition of the Fair Wages Resolution (FWR) and proposes to put in hand the consultations necessary to revoke ILO Convention 94.

2. I support this proposal. The main effect of the FWR must be to keep earnings in regions of high unemployment up to the national average. This removes any market incentive for employers to choose those regions for new job creating activities. Hence regional subsidies have to provide the incentive, at the taxpayers' expense. Retention of the FWR would thus be incompatible with the aim of reducing rigidities in the labour market and so promoting non-inflationary growth.

3. I am sending a copy of this minute to Sir Robert Armstrong.

CONFIDENTIAL

25/1 ds

10 DOWNING STREET

From the Private Secretary

MR. SPENCE
CENTRAL POLICY REVIEW STAFF

The Labour Market :
Measures to Promote Employment

The Prime Minister saw over the weekend the MISC 14 paper circulated last week on measures to promote employment and improve the working of the labour market (MISC 14(82)1).

The Prime Minister has commented that she hopes that the CPRS paper will be clearer and more positive, and that it will take in the views of outside economists and industrialists. She made this point in particular in relation to paragraph 1 of annex 5 to the paper. She also hopes that the figures in the work undertaken by the CPRS will be clearer and more up to date.

M. C. SCHOLAR

25 January 1982

CONFIDENTIAL

ps

CONFIDENTIAL

LEAD

SECRETARY OF STATE FOR EMPLOYMENT

Caxton House Tothill Street London SW1H 9NF

Telephone Direct Line 01-213 6400 GTN 213

Switchboard 01-213 3000

E Folder?

Michael Scholar Esq
10 Downing Street
LONDON SW1

22 January 1982

Dear Michael

FAIR WAGES RESOLUTION (FWR)

As you know, the FWR is to be discussed at E ... on 26 January. I enclose for the benefit of those Ministers attending that meeting correspondence between my Secretary of State and the Secretary of State for Northern Ireland which has not previously been copied to colleagues. I am copying this letter and enclosures to Private Secretaries to members of E Committee, the Secretaries of State for Scotland and Social Services, and Sir Robert Armstrong.

Yours sincerely

John Anderson

J ANDERSON
Private Secretary

SP CONFIDENTIAL

Caxton House Tothill Street London SW1H 9NAF

Telephone Direct Line 01-213 6400 GTN 213

Switchboard 01-213 3000

Rt Hon James Prior MP
Secretary of State
Northern Ireland Office
Government Offices
Great George Street
LONDON SW1P 3AJ

11 January 1982

Dear Jim,

FAIR WAGES RESOLUTION (FWR)

Thank you for your letter of 4 January 1982 about the future of the Fair Wages Resolution.

The alternative that you suggest - action to ensure primacy of clause 1(a) over clause 1(b)-has in the past been considered by officials who have concluded that this objective could not be achieved by administrative action and the only means of achieving it involves amending the wording of the resolution itself. One of the consequences of not being able to secure this primacy is, as you know, that FWR claims made in the engineering industry are determined not on the nationally negotiated minimum time rates but on the general level paid in the industry. Although awards made there and elsewhere will not, in all probability, have affected pay or employment levels in general they do have consequences for individual employers, with repercussive effects on their internal differential pay rates, and as you recognise they are quite incompatible with several elements of Government policy, not least that the major determinant of pay rates should be market forces rather than enforced comparability.

I would be quite content for us to consider this collectively but wondered if, against this background and the fact that we cannot bring about change other than by a further resolution in the House, you wished to press your reservations or if we can proceed as outlined in my minute of 10 December to the Prime Minister.

Yours
Norman

NORTHERN IRELAND OFFICE
GREAT GEORGE STREET,
LONDON SW1P 3AJ

SECRETARY OF STATE
FOR
NORTHERN IRELAND

Rt Hon Norman Tebbit MP
Secretary of State for Employment
Caxton House
Tothill Street
LONDON SW1H 9NF

4 January 1982

Dear Secretary of State

FAIR WAGES RESOLUTION (FWR)

Thank you for copying to me your minute of 10 December to the Prime Minister.

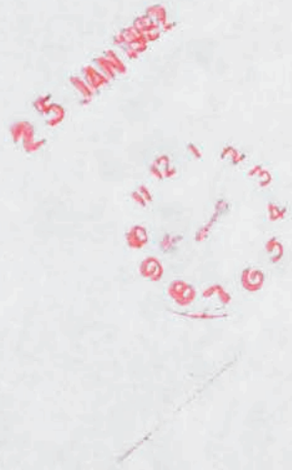
I accept that it would be consistent with our approach on pay comparability and on unilateral access to arbitration to consider the abolition of the FWR. However, since we discussed the subject at E Committee last February there has been no evidence that the resolution has in practice had any effect on pay or employment levels generally. Before embarking on a course of consultation which would seem certain to arouse the opposition of the trade union movement, it would be helpful if we could review any available evidence of the current effect of the FWR in practice. Meanwhile I find significance in the arguments against the abolition of the FWR contained in your note and would welcome collective discussion.

I wonder whether it would be a practical alternative option to take administrative action to ensure that, where cases are referred to CAC, that body takes full account of the primacy of clause 1(a) of the resolution and does not, as it has in the past, pay undue regard to the general level provisions of clause 1(b)? It might also be possible to take the line that, while Government Departments are continuing to observe the Resolution, it should be regarded as less appropriate to public bodies which are not wholly dependent on public funds, and so we could suggest to nationalised industries and other trading bodies that they need no longer feel compelled to include the clause in their contracts. Whilst I recognise the difficulties of implementation a similar policy could be applied to local authorities.

Yours sincerely

PJ JAMES PRIOR
(Signed on behalf of the Secretary of State in his absence)

BB


25 JAN 82

CONFIDENTIAL

22 January 1982
Policy Unit

PRIME MINISTER

WAGES COUNCILS: E ON TUESDAY, 26 JANUARY

Complete Abolition is the honest solution

1. Our previous notes (attached for reference) have consistently argued for the abolition of Wages Councils. Minimum wage laws are completely at variance with the Government's aim to free labour markets so that we secure a higher level of employment and output, lower unit wage costs and prices, reduce imports and the PSBR and perhaps even increase exports.

2. It is sometimes argued that Wages Councils fix rates so low that they are the same as if they were determined by the free market. If that were so, it would equally be an argument for saving public money and 200 Wages Inspectors.

3. Abolition would provoke a condemnation from the ILO. But this could be used to our advantage, to highlight our determination to sweep away infringements of our liberties and obstacles to employment. There is no reason why we cannot win this public debate. We can quote American experience of minimum wage laws which, as Alan points out, discriminate against the disadvantaged and do not benefit the poor; we can expose the wrong-headedness and left-wing and communist dominance of the ILO - from which Ford/Kissinger extricated USA in 1975, only to be reversed by Carter in 1980 (see Annex).

Inferior alternatives to Abolition

4. If colleagues really feel that they could not win the public debate on abolition, various alternatives have been put forward. Of these, we think the next best would be option 2(c) in Norman Tebbit's paper: removing their power to set minimum rates.

5. CPRS have proposed a slightly modified version of this same route, by adding a "safeguard" against exploitation. This would put the onus on the plaintiff to prove that the low pay resulted from monopsony or exploitative collusion. We don't like this concession, but since it would probably be very hard to invoke it, the CPRS package is probably a poor third best.

CONFIDENTIAL

6. A poorer alternative is to exempt young people from Wages Councils. This still leaves millions affected, but it could be a step towards abolition - since it would admit that Wages Councils are an obstacle to youth employment. It would also allow us to expand the approach in the Young Workers' Scheme (which was constrained partly by the existence of Wages Councils).

7. This leaves Norman Tebbit's own proposal - simply constraining the percentage that young people's minimum wages are of adult minimum wages - as a very poor last choice. As the Chancellor has pointed out, it could backfire by exerting upward pressure on the adult rate.

Agricultural Wages Board (AWB)

8. There is a connection between our stance on Wages Councils and on the AWB. Many colleagues have close connections with agriculture, and this no doubt means they have strong views on the AWB. They may fear that its abolition would lead to something worse, in which unions had a greater voice. But the recent performance of the AWB in awarding 10% and an extra week's holiday (ie 12% in all) with no attempt to open up differentials between young people and adults, has struck a further blow at youth employment. Nevertheless, it may be tactically better to leave on one side AWB issues at this meeting of E.

Longer-term

9. Some opponents of abolition of Wages Councils believe that their removal would be replaced by greater unionisation or, worse still, an all-embracing minimum wage law. The latter fear amounts to political cowardice: it could only happen if we lost power. The former is understandable, but the correct antidote is to continue our programme of trade union reform.

Conclusion

We rank the outcomes as follows:

(1) Clear first choice: abolition.
(2) Second choice: remove wage-fixing power.
(3) Third choice: remove wage-fixing power with CPRS safeguard.
(4) Fourth choice: remove young people and part-time workers.
(5) Fifth choice: control relativity between young and adult rates.

I am copying this note to Geoffrey.

CONFIDENTIAL

JOHN HOSKYNS

NOTES ON THE UNITED STATES AND THE INTERNATIONAL LABOUR OFFICE

1. The United States gave the two year notice period that it would withdraw from the ILO on 5 November 1975. The State Department did not want to withdraw, but Henry Kissinger was convinced that it was the right policy. President Ford also agreed. There was also some considerable pressure from the workers organisations, in particular the AFLCIO.

2. The reasons cited in the letter were:

   i. The ILO was allowing pressure by Communist countries to erode the autonomy of non-Government groups.

   ii. The ILO exhibited a double standard for human rights violations, condemning them in non-Communist countries and condoning them in Communist states.

   iii. The ILO had no respect for due process and in fact condemned Greece and Israel before the Committees of Inquiry had even reported.

   iv. There was increasing politicisation of the ILO and particularly the annual conference.

3. Pressure from the State Department, which continues to be dominated by McGovernites, caused Carter to return to the ILO on 18 February 1980.

[NOTE: All this information came from Roger Schrader, ext 2121 at the US Embassy, London.]

AW

21 January 1982

ALAN WALTERS

CONFIDENTIAL

17 February 1981
Policy Unit

PRIME MINISTER

WAGES COUNCILS

1. E Committee will be discussing Unemployment and Young People next week.

2. The CPRS report on youth unemployment (E(81)22) suggests (paras. 45-47 and A11) that some young people have been priced out of jobs by a narrowing differential with adult rates of pay. Accordingly, para. 48(ii) suggests that excluding juveniles from the scope of Wages Councils awards could help to boost youth employment.

Previous Discussions

3. The majority view of E(EA) last November was that Wages Councils should be retained, but that the Secretary of State for Employment should see whether young people and part-time workers could be exempted from the scope of Wages Councils awards. In our view, this suggestion amounts to an admission that the effect of Wages Councils is probably harmful. We understand that it is very unlikely that a way of exempting young people will be found. We think the correct solution is simply to abolish Wages Councils.

4. Do we think that Wages Councils help the 2.75 million people that they cover? If they do raise wages above the market level in the industries concerned, they must raise unemployment. They can only benefit the employed at the expense of the unemployed.

5. Studies have shown that the overlap between low pay and poverty is small.* Many of the low wage earners affected by Wages Councils are married women or young single men. The poor, by contrast, are typically larger families where there is only one breadwinner. So the supposed beneficiaries are not the poorest section of the community, and can only gain at the expense of preventing other people, including heads of households, from getting a job.

New Information

6. The National Federation of Self-Employed and Small Businesses recently published a well-researched commentary on the effects of the Wages Council system on jobs. Employment Ministers have been questioned in the House, and Mr John Townend has sought to introduce a Bill curbing

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* R Layard, Centre for Labour Economics at LSE.

them. A summary of the booklet is annexed. The Federation has backed up its points; we will not repeat all the arguments here.

7. There is strong evidence that in the USA, paradoxically, minimum wage laws have hit poor, unskilled blacks hardest of all. If as a result of poor educational facilities and lack of experience, these people have less to offer an employer, he will only employ them if he can pay them less than others. A minimum wage law prevents this. Instead, a price is fixed artificially, causing the employer to choose the best qualified. In effect, the law says to a young, inexperienced and unskilled person: "You are not free to price yourself into a job". As a result, black youth unemployment in the USA is now 40%, while the white youth rate is 16%. But in 1948, before this misguided legislation was introduced, unemployment among black and white youths was equal. (Of course, the black youths tended to earn less, reflecting their adverse starting point.)

The Case against Abolition

8. It was argued at E(EA) that Wages Councils probably did not do much harm and that it would be hard to explain a decision to abolish them. Of course, there would be many attempts to misrepresent such a decision. It would be necessary for Government Ministers to fight and win the argument. We think this could be done, especially if the announcement were linked with other employment measures. It is completely consistent with everything we have said and stand for that people - especially the young and unskilled - should be free to price themselves into jobs. There is no need to be afraid of spelling this out. It is all part of replacing economic myth with economic reality.

Recommendation

9. We recommend that the Government should take an early opportunity to announce its intention to abolish Wages Councils - coupled with an announcement on other measures on training and youth employment. If Ministers judge that winning the ensuing propaganda war is impossible, a second best solution would be to leave Wages Councils intact for establishing terms and conditions of work, but to remove their wage-fixing power.

10. I am copying this minute to members of E, Robin Ibbs and Sir Robert Armstrong.

JOHN HOSKYNS

Summary

[1] Wages Councils were mostly set up in the 1920's to protect workers from 'sweatshop' conditions and low rates of pay in fragmented industries that were hard to organise. Because of rapid advances in communications and centralised collective bargaining, they are no longer necessary.

[2] Nevertheless, Wages Councils have the power to fix minimum wage rates for 2.7 million workers in every trade from haberdashery to hotelkeeping. Their awards have the power of law, and employers can be subject to large fines for underpayment.

[3] Over the last few years, Wages Councils have used their statutory powers to force wages increases on employers that are far ahead of the rate of inflation, of wage rates in comparable industries, and of average wages in the economy as a whole.

[4] Wages Councils have forced up the real cost of labour considerably by insisting on increases well above average for younger workers, and by reducing the length of the working week.

[5] The effect of this has been to cause unemployment. The worst affected have been women, school leavers, and ethnic minorities, who have all found themselves priced out of jobs. The Government should realise that it must encourage people to create jobs, not make it more difficult, as is the effect of Wages Councils' awards.

[6] Wages Councils entail an expensive secretariat and enforcement arm. They add further costs to businessmen and consumers because of increased paperwork. Many Wages Council awards are difficult to interpret and understand, causing further administrative difficulties for traders. The powers of the inspectorate are sweeping.

[7] Wages Councils are nevertheless inefficient, and often allow far too little time for those affected by their decisions to lodge objection.

[8] Awards can be backdated, so that traders never know exactly where they stand with respect to labour costs. This makes efficient budgeting impossible, driving down profit margins and reducing the number of new firms entering each industry – or making extra costs for the consumer. There is an overwhelming pressure from small businessmen for longer periods of consultation, a less offhand approach from inspectors, and the ending of backdated awards.

[9] Wages Councils have outlived their usefulness, have an adverse effect on trade and employment, and ought to be abolished. In the meantime, they should be reformed, made more representative, reduced in scope and made aware of their harmful effects.

6 April 1981
Policy Unit

PRIME MINISTER

WAGES COUNCILS: E DISCUSSION ON WEDNESDAY, 8 APRIL

1. E(81)40 argues for continued pruning of the Wages Council system. This implicitly accepts that they do more harm than good.

2. We agree. We also agree that it would be illogical to sustain the system but seek to exempt young people or part-time workers - thus admitting that it was harmful to their interests.

3. Instead, we favour complete abolition. There are only two views possible on price-fixing by law: either it works, producing unfortunate side effects - in this case unemployment; or it fixes prices at a level very close to those which would arise anyway - in which case it is unnecessary.

4. Paragraph 7 of E(81)40 says that the official paper concluded that the influence on employment was marginal. But the paper cited contains very little evidence; it was written before the recent vociferous criticism by small employers; and its opening paragraph disclaims any attempt to assess the general argument for or against the system.

5. The American experience quoted in our note of 17 February is that minimum wage laws have hit poor, unskilled blacks hardest of all. The law prevents them from pricing themselves into a job and acquiring the work experience that is vital to moving on to better jobs. Levels of unemployment among black youths in the UK are now climbing towards USA experience. At the same time, contrary to the impression given in E(81)40, USA is now considering dismantling these barriers to employment.

6. Of course, our opponents would try to misrepresent the purpose of abolition. The key question is whether fear of losing the argument is a sufficient reason for inaction.

7. I am copying this minute to other members of E Committee, the Secretaries of State for Scotland, Wales and the Social Services, Robin Ibbs, and Sir Robert Armstrong.

JOHN HOSKYNS

CONFIDENTIAL

FILE

10 DOWNING STREET

From the Private Secretary

21 January 1982

cc CPRS
CO
MOT
CAL
NIO
DOE
MOD
PGO
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MAFF
D/M
DES
D/Ind
FCO
HO

bc A. Argyll
J. Vereker

Wages Councils

The Prime Minister was grateful for the Chancellor's minute of 18 January about Wages Councils.

The Prime Minister has noted the Chancellor's views, which will be for discussion at the meeting of E Committee scheduled on Tuesday 26 January.

I am sending copies of this letter to the Private Secretaries to the other members of E Committee, David Wright (Cabinet Office) and Gerry Spence (CPRS).

M. C. SCHOLAR

John Kerr, Esq.,
HM Treasury.

CONFIDENTIAL

cc Mr. Hoskyns
Mr. Wolfson
Mr. Scholar

MR. DUGUID

THE ILO AND THE FAIR WAGE RESOLUTION

1. I confirm now that the situation was broadly the same as I informed you. But I have now got the dates, etc from the US Embassy.

2. The ILO was clearly enormously damaged by the withdrawal of the United States, since of course the US foots most of the bill. I know that plans were afoot to withdraw again under the Reagan administration, but they may be waiting for a casus belli. It is believed that the ILO is watching its Ps and Qs as well as its Pinkos and Commies, rather more circumspectly now. I suppose quite a bit turns on their reaction to Solidarity etc. But I'm not up on all this.

3. The United States, however, is not a party to the Fair Wage Resolution. In fact the only resolutions which have been adopted by the United States are those concerned with maritime labour.

4. It is quite clear that virtually all the resolutions of the ILO, with the exception of the maritime ones, would be inconsistent with labour legislation in many of the Southern and Western states. For example they would certainly be inconsistent with the so-called right-to-work laws in Virginia.

21 January 1982

ALAN WALTERS

NOTES ON THE UNITED STATES AND THE INTERNATIONAL LABOUR OFFICE

1. The United States gave the two year notice period that it would withdraw from the ILO on 5 November 1975. The State Department did not want to withdraw, but Henry Kissinger was convinced that it was the right policy. President Ford also agreed. There was also some considerable pressure from the workers oranisations, in particular the AFLCIO.

2. The reasons cited in the letter were:

   i. The ILO was allowing pressure by Communist countries to erode the autonomy of non-Government groups.

   ii. The ILO exhibited a double standard for human rights violations, condemning them in non-Communist countries and condoning them in Communist states.

   iii. The ILO had no respect for due process and in fact condemned Greece and Israel before the Committees of Inquiry had even reported.

   iv. There was increasing politicisation of the ILO and particularly the annual conference.

3. Pressure from the State Department, which continued to be dominated by McGovernites, caused Carter to return to the ILO on 18 February 1980.

[NOTE: All this information came from Roger Schrader, ext 2121 at the US Embassy, London.]

AW

21 January 1982

ALAN WALTERS

CONFIDENTIAL

EJU
AD

(2)

Prime Minister

We are already pursuing the point at X. following several questions at last Wednesday's Self Employed Federation lunch.

To note.

MLS 19/1

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

PRIME MINISTER

WAGES COUNCILS

No: now planned for 26 Jan or 2 Feb MLS

At the meeting of E Committee on 19 January we are due to discuss Norman Tebbit's paper (E(81)127). It recommends that powers should be taken to prevent wages councils from increasing statutory minimum rates for 16 and 17 year olds to more than a given percentage (to be specified by order) of the adult rate. But it does not re-examine the arguments for more radical action.

2. We badly need to improve the working of labour markets, so that people can get jobs at wages which employers can pay. By pushing wages above market levels, wages councils obstruct this: if they didn't they would not fulfil their intended purpose, and justify annual administrative expenditure of about £3¾ million. Perhaps their effect is only at the margin - that was I believe the conclusion of a 1980 Department of Employment study. But the "housemaid's baby" defence is always unconvincing.

3. I can see that early abolition of the wages council system might cause complications, e.g. with ILO. But I think that we ought to be taking whatever steps we can to limit the damage it does. Could we more rapidly reduce the number of councils? + Could the criteria for selecting independent members give greater weight to the need for an appreciation of market and employment factors? Is there a case for a right of appeal to the Secretary of State on the grounds that employment will be adversely affected by particular wages council decisions?

4. On the specific issue of young workers I think that the proposal in E(81)127 would on balance be beneficial, though there

/is a risk

is a risk that it might exert some upward pressure on adult rates as well as downward pressure on youth rates. But I would favour going further and removing young people (and part-time workers) from the scope of the wages council system altogether. I would be surprised if our ILO obligations were so unequivocal as to preclude even this marginal reduction in the scope of the system.

5. I am copying this minute to the other members of E Committee and to Sir Robert Armstrong and Mr Ibbs.

(G.H.)
18 January 1982

THIS DOCUMENT IS THE PROPERTY OF HER BRITANNIC MAJESTY'S GOVERNMENT

MISC 14(82)1 COPY NO.

15 JAN 1982

CABINET

MINISTERIAL STEERING GROUP ON GOVERNMENT STRATEGY

THE LABOUR MARKET : MEASURES TO PROMOTE EMPLOYMENT

Note by the Chancellor of the Exchequer

Background

1. Cabinet agreed in June 1981 that MISC 14 should consider ways of further reducing hindrances to employment. This paper reviews progress on that remit and suggests how we might take the work forward.

2. We have already taken important decisions relevant to the labour market since July. These include elements of the July employment measures; the forthcoming legislation on industrial relations; and the further measures on training which the Secretary of State for Employment announced recently.

3. Work has been completed or commissioned in a number of other areas. The Secretary of State for Employment has circulated E(81)127 which reconsiders options for abolishing or curtailing Wages Councils, and has supplied the report on procedures for matching labour supply with market needs (MISC 14(18)12). Other work in hand includes the follow-up to the recent report on arbitration arrangements in the public sector; a DHSS assessment of whether any benefit changes are needed to facilitate part-time work; and, within the MISC 14 context, further studies on education/industry links, the

Employment Transfer Scheme and housing and labour mobility.

4. There remain however further ideas which merit consideration. A note by Treasury officials in the late summer identified certain possibilities (listed at Appendix A). Some have since been examined and rejected for the present - examples are the Layard type employment subsidy and raising the lower earnings limit for the payment of National Insurance Contributions. The annexes to this paper (prepared variously by Treasury, No.10 Policy Unit and CPRS) examine some of the other proposals. Each is designed to help bring about a more flexible labour market by putting downward pressure on labour costs through one or more of the following mechanisms:

(i) the removal or modification of institutional arrangements which underpin too-high wage levels;

(ii) an increase in the effective labour supply - those willing to work at a particular wage level. This should enable a given demand for labour to be satisfied at lower average wage levels;

(iii) the direct removal or reduction of certain non-wage 'overhead' costs of employing labour.

The Labour Market and the Economic Strategy

5. The objective is to increase the efficiency with which the domestic economy uses labour resources, so as to lower unit costs, increase our international competitiveness and reduce unemployment.

6. There is ample evidence of the need for such action (and for measures to reform many of our product markets as well). The underlying trend in unemployment has been upward since the mid-1960s. This cannot be explained, over so long a period, by any falling off in the pressure of demand for labour: there has been no matching trend in vacancies or skill shortages. It can be accounted for only by obstacles which prevent wages from moving towards market-clearing levels.

SW

CONFIDENTIAL

(2)

Prime Minister

Caxton House Tothill Street London SW1H 9NA
Telephone Direct Line 01-213 6400 GTN 213
Switchboard 01-213 3000

MLS 15/1

C J Walters Esq
Home Office
Queen Anne's Gate
LONDON SW1H 9AT

15 January 1982

Dear Colin

FAIR WAGES RESOLUTION

Thank you for your letter of 8 January 1982 about consultations with employers' and employees' associations on the future of the Fair Wages Resolution.

I can confirm that it is the intention of the Secretary of State to seek views on the issue from all parties known to have significant interest in the FWR; that would certainly include employers who were affected by the FWR's inclusion in various statutes. Views from the trade unions will be sought through their representative organisations, who will be asked to bring to the atttention of their affiliates the Government's willingness to hear views expressed by individual unions if that is what they wish to do.

Copies of this letter go to the Private Secretaries to the members of 'E' Committee and to Sir Robert Armstrong.

Yours sincerely

Barry Shaw

J B SHAW
Principal Private
Secretary

From: THE PRIVATE SECRETARY

CONFIDENTIAL

Ind Pol
Prime Minister
HLS 11/1 SC AD

(2)

HOME OFFICE
QUEEN ANNE'S GATE LONDON SW1H 9AT

8 January 1982

Dear Alan

FAIR WAGES RESOLUTION

The Home Secretary has seen the correspondence on the question of abolishing the Fair Wages Resolution (FWR), and would like to raise a particular point concerning the proposed consultations with employers and employees associations.

As the Department of Employment note which was circulated to E Committee on 15 December 1980 points out, a number of statutes include provision for the determination of questions about terms and conditions of employment by reference to the Fair Wages Resolution. One such provision is in section 25 of the Broadcasting (Consolidation) Act 1981, which provides that:

> "The wages paid by any programme contractor to persons employed by him ... and the conditions of employment ... shall, unless agreed upon by the programme contractor or any organisations representative of programme contractors and by organisations representative of the persons employed, be no less favourable to the persons employed than the wages which would be payable, and the conditions which would have to be observed, under a contract which complies with the requirements of any Resolution of the House of Commons for the time being in force applicable to contracts of Government Departments."

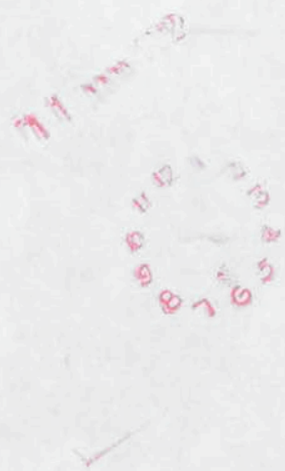
The DE note mentions other statutes, including the Films Act 1960.

The Home Secretary wonders whether, given that the abolition of the FWR would materially affect the statutory provisions under which certain employers and employees conduct their affairs, it would be appropriate to ensure that the employers' associations and unions concerned with these statutory provisions were specifically consulted about proposals to abolish the FWR at the earliest opportunity. The Home Secretary appreciates that this would complicate the consultation process, but feels that the point nevertheless deserves consideration, particularly if, as the Secretary of State for Industry has suggested, consultations should go rather wider than the CBI and the TUC.

Copies of this letter go to the Private Secretaries to the Members of E Committee and to Sir Robert Armstrong.

Yours ever
C J WALTERS

J B Shaw, Esq.



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10 DOWNING STREET

From the Private Secretary

24 December 1981

Dear Richard

Fair Wages Resolution

Many thanks for your letter of 18 December in reply to mine of 15 December.

As you point out, Ministers are to discuss the substantive issues of Wages Councils at a forthcoming meeting of E Committee.

No doubt the points raised in both our letters will be raised at that meeting.

I am sending copies of this letter to the Private Secretaries to the members of E Committee and to David Wright (Cabinet Office).

Yours

Willie Rickett

pp M. Scholar

Richard Dykes, Esq.,
Department of Employment.

CONFIDENTIAL

Prime Minister

22 December 1981

(2)

MR SCHOLAR

To see. You will see considering the issue on Wages Councils in a meeting of E to be arranged on the basis of Mr Tebbit's paper E(81)27. MLS 22/12

cc Mr Hoskyns

WAGES COUNCILS

1. You asked whether we were content with the reply from D/Em to your letter of 15 December.

2. The answer is yes. The next stage is a substantive discussion of the issue on Wages Councils at E Committee. This correspondence has been useful in registering:

(a) That the Prime Minister is still disposed to consider more radical action on Wages Councils.

(b) That the need to denounce another ILO convention is one of the factors involved. (It was not mentioned in the E paper circulated by Mr Tebbit.)

ANDREW DUGUID

JU887

CONFIDENTIAL

Prime Minister (2)

cc AD

To note

MLS 22/12

PRIME MINISTER

FAIR WAGES RESOLUTION (FWR)

I welcome Norman Tebbit's proposal, in his minute to you of 10 December, to move towards abolishing the FWR as soon as international obligations allow us to do so. The merits of the case lie solely on the side of repeal. I also agree with you that there is a strong case for acting on Wages Councils at the same time.

2 I trust that the consultations with industry will not be confined to the CBI. On this, as on other issues, the National Chamber of Trade, the Association of British Chambers of Commerce and, of course, representatives of small firms, will welcome being given an opportunity to express their views.

3 I am sending copies of this minute to the other members of E Committee and to Sir Robert Armstrong.

PJ

P J

21 December 1981

Department of Industry
Ashdown House
123 Victoria Street

TD

Mr Dyson

Content to rest on that?

MCS 19/12

Caxton House Tothill Street London SW1H 9NA

Telephone Direct Line 01-213 6400

Switchboard 01-213 3000

Michael Scholar Esq
Private Secretary to the Prime Minister
10 Downing Street
LONDON
SW1

18 December 1981

Dear Michael.

FAIR WAGES RESOLUTION

Thank you for your letter of 15 December recording the Prime Minister's agreement to the course of action on the Fair Wages Resolution proposed in my Secretary of State's minute of 10 December.

As regards the separate issue of wages councils, it is true that if Ministers were to decide, for example, to go for legislation to abolish the councils it would be necessary to denounce a further ILO Convention. However, the procedure dictated by our international obligations would involve a different time-scale for that denunciation. The next opportunity to notify the ILO of intention to denounce the relevant Convention would be in June 1985, with the denunciation becoming effective 12 months later. Ministers are, of course, due to discuss the substantive issues on wages councils on the basis of my Secretary of State's memorandum E(81)27 circulated on 8 December.

Copies of this letter go to the recipients of yours.

Yours ever

Richard Dykes

R T B DYKES
Principal Private Secretary

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10 DOWNING STREET

From the Private Secretary

15 December 1981

Dear Richard,

FAIR WAGES RESOLUTION

The Prime Minister was grateful for your Secretary of State's minute of 10 December. She is content with the course of action he is proposing and, subject to the views of colleagues, with his suggestion that this matter could be dealt with in correspondence.

She has also enquired about the possibility of taking action in parallel on the future of wages councils. The Prime Minister understands that Mr. Tebbit's present proposal on this subject is that the councils should be left intact, and that there should merely be a specification of the maximum percentage that young people's wages council awards should represent of the adult rate. If Ministers were to decide that there should be radical action on wages councils this would, the Prime Minister understands, require a further ILO convention to be denounced. If this were so, there would be, clearly, a strong case for acting on the Fair Wages Resolution and wages councils at the same time. Both changes could be presented as removing obstacles to employment.

I am copying this letter to the Private Secretaries to Members of E Committee and to David Wright (Cabinet Office).

Yours sincerely,

Michael Scholar

Richard Dykes, Esq.,
Department of Employment.

CONFIDENTIAL

PRIME MINISTER

I attach a note from John Hoskyns, covering a minute from Mr. Tebbit about the Fair Wages Resolution.

He concludes that the Government should go for abolition, and the Policy Unit strongly support this.

Mr. Tebbit hopes that this can be agreed in correspondence. Can I take it that you would be content to handle it this way if there is agreement? There may, however, be uneasiness among some colleagues which will result in the matter coming to E.

11 December 1981

11 December 1981

POLICY UNIT

PRIME MINISTER

FAIR WAGES RESOLUTION

1. We were strongly in favour of abolishing the FWR when E Committee discussed it in February. Norman Tebbit has now recognised the case for this. The existence of the FWR is, of course, totally at variance with this Government's approach to pay and employment.

2. We would like to see Norman Tebbit adopt a similarly robust and consistent line on the future of wages councils. At present, he has circulated a paper to E in which he proposes that we leave wages councils intact, but merely specify the maximum percentage that young people's wages council awards should represent of the adult rate. We do not think this goes far enough, and propose to put the alternative view forward when the subject is discussed at E - probably not until next month now. We understand that more radical action on wages councils might also require an ILO convention to be denounced. If this is so, we see a strong case for acting on the FWR and wages councils at the same time.

3. If we have the courage of our convictions, both changes could be presented as removing obstacles to employment.

JOHN HOSKYNS

CONFIDENTIAL

AD 10/12

SECRETARY OF STATE FOR EMPLOYMENT

PRIME MINISTER

FAIR WAGES RESOLUTION (FWR)

The future of the FWR was discussed in 'E' Committee last February on the basis of a paper (E(81)19) by my predecessor setting out the arguments and options for changing or abolishing the FWR. It was agreed to postpone a decision until this autumn, largely because of timing considerations arising from the UK's ratification of International Labour Organisation (ILO) Convention 94. As the attached note by officials makes clear, we cannot denounce the Convention before September 1982, to take effect one year later.

I agree with the conclusion of paper E(81)19 that there are only two reasonable options: to abolish the FWR or to leave it alone. The FWR is inconsistent with our belief that pay and conditions should in general be determined by employers and unions in the light of their particular circumstances. Its abolition would be consistent with our repeal last year of Schedule 11 of the Employment Protection Act. If ILO Convention 94 is not denounced sometime in the 12 months from September 1982, a further opportunity to repeal the FWR consistent with our international commitments will not arise for another 10 years.

Against this it can be argued that there is little current interest in the FWR and that its practical influence on pay and employment levels generally is minimal. Its repeal is likely to attract disproportionate criticism from the TUC and others as an encouragement to wage-undercutting and as opening up Government contracts to "unfair" competition. Such criticism will no doubt be carried into the ILO.

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In my view the balance of argument is in favour of abolition. This can be achieved by a fresh resolution of the House of Commons. But as the attached note by officials indicates, our international obligations require us to consult at least the CBI and TUC before denouncing the relevant ILO Convention. I therefore propose to start these consultations in the spring with a view to introducing an abolishing Resolution in the autumn of 1982, to take effect in September 1983.

If you and colleagues agree with this approach I see no need for us to consider it collectively. I am copying this to members of 'E' Committee and to Sir Robert Armstrong.

NT

N T

10 December 1981

INTERNATIONAL OBLIGATIONS RELATING TO THE FAIR WAGES RESOLUTION (FWR)

Note by Officials

1. The United Kingdom has ratified International Labour Organisation (ILO) Convention 94 (concerning Labour Clauses in Public Contracts), the wording of which corresponds very closely to the FWR. Abolition or radical change of the FWR would require prior denunciation of the Convention.

2. Denunciation of the Convention is possible, but must be done in accordance with ILO rules if an unprecedented breach of our international obligations is to be avoided. Conventions can generally be denounced at 10 year intervals, and Convention 94 can next be denounced between 20 September 1982 - 19 September 1983. Denunciation is effected by informing the ILO office in Geneva of the Government's intentions, and takes effect one year after its communication. Consequently abolition of the FWR could not become effective before 20 September 1983.

3. The UK has also ratified ILO Convention 144 (concerning Tripartite Consultations to Promote the Implementation of International Labour Standards) which requires the Government to undertake effective consultations with the most representative employers and workers associations on, amongst other things, proposals for the denunciation of ratified Conventions.

4. Breach of any of the provisions of these conventions by the UK would result in a complaint to the ILO by the TUC. This would be embarassing for the UK, particularly as in this instance the UK was a prime instigator of Convention 94; and it could be represented abroad as indicating that the UK does not take its ILO commitments seriously. The TUC could also be expected to make strong public representations if we did not adhere to the internationally accepted obligation to consult them and others; or if we ceased operating the FWR while still bound by Convention 94.

5. Denunciation of an ILO Convention is not a step to be taken lightly; but the UK has denounced 4 Conventions since 1919, most recently in 1971 when the Government wished to charge for its professional and executive recruitment service (PER) but had ratified a Convention requiring a free public employment service.

Ref: A04660

CONFIDENTIAL

PRIME MINISTER

Wages Councils
(E(81) 40)

BACKGROUND

After two discussions last year, the E(EA) Sub-Committee accepted the Secretary of State for Employment's recommendations that the Wages Councils system should be retained, but improved, subject to his examining further the possibility of removing young people and part-timers from the scope of Wages Councils awards. When E Committee discussed youth unemployment and training, and the Fair Wages Resolution, on 24th February, they invited the Secretary of State for Employment to put his paper on Wages Councils to them (E(81) 8th Meeting, Item 2).

2. There are now 33 Wages Councils - 16 less than in 1969 - covering $2\frac{3}{4}$ million workers. In E(81) 40 the Secretary of State for Employment recommends strongly that, as E(EA) agreed last year, the system should stand but be improved. His main arguments for maintaining the system are that:-

(a) It expresses long-standing, all party concern to prevent exploitation of unorganised workers in low pay sectors.

(b) There is no firm evidence that significant economic benefits might flow from wholesale abolition -

statutory minimum rates under the system average about 20 per cent below collectively bargained minima, and many employers choose to pay more than the statutory minima;

for more detail see Annex A of E(81) 40 and also Annex B for a commentary on the recent criticisms of Wages Councils made by the National Federation of Self-employed and Small Businesses Limited.

(c) Abolition would require primary legislation which would be contentious and could stimulate pressure for compensating measures, e.g. a national minimum wage, and also the extension of trade union activity into the small business sector.

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(d) It would be difficult logically to defend the abolition of Wages Councils but the retention - as the Agriculture Ministers strongly wish - of the Agricultural Wages Boards. (This is an argument likely, if the E(EA) discussion is any guide, to weigh heavily with colleagues. The farmers positively like the system.)

3. The Secretary of State for Employment further argues - paragraphs 9-13 of his paper - against primary legislation to remove young people and part-time workers from the scope of the Wages Councils. He judges that since the rates paid to young people frequently exceed the statutory minima any additional jobs would be relatively few and at the expense of adults. He prefers to concentrate on the wider issue, which will be discussed in his consultative paper on industrial training, of the need to widen the wage differential between young people generally and adults. He believes that to remove part-timers from the scheme would be seen as an attack on low paid married women many of whom work part-time of necessity. The arguments against exclusions are set out in more detail in Annex C to his paper.

4. The Secretary of State has already taken action to improve the system. He has announced that the Wages Inspectorate will be cut from 300 to 200. He is looking for improvements in procedures such as stopping the practice of back-dating of pay increases and simplifying the Councils procedures and paper work. These improvements are described in more detail in his Annex A2.

HANDLING

5. After the Secretary of State for Employment has introduced his paper you might invite the Secretary of State for Industry, who has been one of the main critics of the system, and the Chancellor of the Exchequer to comment. The Secretary of State for Social Services may wish to comment on the implications for the low-pay groups. The Minister of Agriculture and the Secretaries of State for Scotland and for Wales will be particularly concerned over the need to retain the Agricultural Wages Boards and to question whether this would be possible if the Wages Councils were to go.

6. The logical sequence of questions to which colleagues might address themselves is:

(a) Do colleagues accept that the Agricultural Wages Boards must be retained? If not the option is open of scrapping the whole system.

(b) If the Agricultural Wages Boards are to be retained must a (not necessarily the) Wages Council system also be kept?

(c) If Wages Councils are to be kept should it be in the form (and with the reforms) prepared by the Secretary of State for Employment?

Or (d) should young people be excluded from their remit?

And (e) should part-timers be excluded?

CONCLUSIONS

7. In the light of the discussion you will wish to record conclusions:-

Either (a) that the Committee endorses the recommendations in paragraph 14 of E(81) 40 in favour of continuing the present system with improvements;

Or (b)(i) that the Committee agrees in principle, and subject to finding a place in the legislative programme, to the abolition of the Wages Council system;

(ii) that the Committee agrees in principle additionally to abolish the Agricultural Wages Boards;

Or (c) that the Committee agrees in principle to retain both the Wages Councils and the Agricultural Wages Boards, but to exclude either/or both (i) young people (ii) part-timers from their remits.

RTA

(Robert Armstrong)

7th April 1981

c/A Ingrid

CONFIDENTIAL

Qa 05311

To: MR LANKESTER

7 April 1981

From: J R IBBS

Wages Councils (E(81)40)

1. E(81)40 is concerned with two issues - a wider one, viz. whether the Wages Council system should be retained or abolished, and a narrower one, viz. whether certain groups - the young and/or part-timers - should be excluded from jurisdiction of wages councils.

2. On the wider issue, the CPRS believes that it is difficult in principle to justify the retention of wages councils in modern conditions. Mr Prior does not in his paper seek to argue that they are performing a valuable or worthwhile economic or social role; indeed, he argues that their effect on inflation and employment is only marginal, and the official working group concludes (Annex A, paragraph 8) that minimum wages levels in areas covered by wages councils probably differ little from what a free market would determine. On that basis, an apparatus costing nearly £3 million a year (including 200 wages inspectors), plus unquantified administrative burdens on employers, seems at least not at all cost effective.

3. On the other hand, in the absence of positive evidence that the abolition of wages councils would have any significant beneficial effect on employment, Mr Prior may well be right to stress the political objections to abolition that would be raised. Unless one could demonstrate that the system is having a clearly damaging effect (and the CPRS, like Mr Prior, do not think that the available evidence can support this argument), Ministers have to consider whether the credit that they could take for relatively small expenditure savings would be sufficient to outweigh a major political row in which their motives for pursuing abolition would be gravely misrepresented.

4. On the narrower issue, which only arises if Ministers decide not to abolish the wages councils altogether, the CPRS thinks that the case for excluding young people under 18 is a good deal stronger than that for excluding part-timers. Since part-timers are around one-third to one half of those covered and mostly women, their exclusion would be seen both as a major attack on the system and as discriminatory. Young people under 18 on the other hand form only 5 per cent - 10 per cent of those covered. The case for exclusion is:

(a) The Government is concerned about the narrowing of the differential between young people's and adult wages, and its implications for youth unemployment. One of the themes of the proposed New Training Initiative document is that this trend should be reversed.

(b) Wages Councils awards reflect this trend, even if they have only followed the results of collective bargaining elsewhere.

(c) The Government could take direct action on wages councils' powers on young people's wages, whereas elsewhere it can only seek to influence employers and unions indirectly.

5. If exclusion of young people is thought to be too controversial, an alternative approach (suggested in the CPRS Report on Unemployment and Young People - E(81)22, paragraph 48ii - but not discussed in Mr Prior's paper) would be to limit the powers of wages councils in relation to young people, e.g. by providing that minimum wage levels for them should not exceed supplementary benefit level plus x per cent, or should not exceed y per cent of corresponding adult rates. Mr Prior might be asked whether this approach has been, or should be, considered.

6. I am sending a copy of this minute to Sir Robert Armstrong.

JR

7 April 1981
Policy Unit

PRIME MINISTER

WAGES COUNCILS

We have circulated the attached note as a reminder for the discussion at E tomorrow.

It might be helpful if you invited Alan to comment on US experience. This would also give him the opportunity to make one or two other points which need making.

JOHN HOSKYNS

6 April 1981
Policy Unit

PRIME MINISTER

WAGES COUNCILS: E DISCUSSION ON WEDNESDAY, 8 APRIL

1. E(81)40 argues for continued pruning of the Wages Council system. This implicitly accepts that they do more harm than good.

2. We agree. We also agree that it would be illogical to sustain the system but seek to exempt young people or part-time workers - thus admitting that it was harmful to their interests.

3. Instead, we favour complete abolition. There are only two views possible on price-fixing by law: either it works, producing unfortunate side effects - in this case unemployment; or it fixes prices at a level very close to those which would arise anyway - in which case it is unnecessary.

4. Paragraph 7 of E(81)40 says that the official paper concluded that the influence on employment was marginal. But the paper cited contains very little evidence; it was written before the recent vociferous criticism by small employers; and its opening paragraph disclaims any attempt to assess the general argument for or against the system.

5. The American experience quoted in our note of 17 February is that minimum wage laws have hit poor, unskilled blacks hardest of all. The law prevents them from pricing themselves into a job and acquiring the work experience that is vital to moving on to better jobs. Levels of unemployment among black youths in the UK are now climbing towards USA experience. At the same time, contrary to the impression given in E(81)40, USA is now considering dismantling these barriers to employment.

6. Of course, our opponents would try to misrepresent the purpose of abolition. The key question is whether fear of losing the argument is a sufficient reason for inaction.

7. I am copying this minute to other members of E Committee, the Secretaries of State for Scotland, Wales and the Social Services, Robin Ibbs, and Sir Robert Armstrong.

JOHN HOSKYNS

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CONFIDENTIAL

PRIME MINISTER

WAGES COUNCILS

I have seen John Hoskyns' minute to you of 17 February.

2 Although E(EA) reluctantly decided last year that Wages Councils should be retained, I believe that John is right to raise the question again in view of the increasing concern about unemployment, particularly youth unemployment. I hope that his minute can be considered in E next week alongside the other possible improvements to the operation of the labour market that were put forward in the CPRS report on youth unemployment.

3 I am sending copies to the other members of E, and to Robin Ibbs and Sir Robert Armstrong.

KJ

K J

20 February 1981

Department of Industry
Ashdown House
123 Victoria Street

CONFIDENTIAL

Ref: A04685

CONFIDENTIAL

PRIME MINISTER

The Fair Wages Resolution
(E(81) 19)

BACKGROUND

In E(81) 19 the Secretary of State for Employment recommends that a decision on the future of the Fair Wages Resolution (FWR) should be deferred to early 1982, on the grounds that the first opportunity for denunciation of the International Labour Organisation (ILO) Convention 94, which enshrines the FWR, is not until September 1982 for implementation in September 1983. The Secretary of State for Employment first recommended this in his letter of 15th December to the Secretary of State for Industry to which was attached a detailed report by officials. In his letter of 12th January the Secretary of State for Industry argued that the intention to repeal the FWR should be announced now and that the issue should be discussed by E Committee; and he was supported in this by the Chief Secretary (28th January) and the Secretary of State for Northern Ireland (11th February). The Secretary of State for the Environment (9th January) supported the Secretary of State for Employment.

2. The FWR is described in detail in the report by officials attached to the letter of 15th December, and is reproduced in Appendix 4 to that report. It was first adopted in 1891 and the current version dates from 1946. Its provisions aim to ensure that employers engaged in Government contracts pay wages, and observe conditions of employment, no less favourable than those established by negotiation or observed in practice by other employers in the industry. The FWR is incorporated in Government contracts as a standard condition; and it is also applied in Northern Ireland and by most nationalised industries and public corporations. Disputes are referred to the Secretary of State for Employment and, if necessary, by him to arbitration.

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3. The arguments for and against repeal are set out in paragraphs 4 - 6 of E(81) 19. The main arguments for repealing the FWR are:-

(i) It is out of date: employees now have sufficient protection from their unions; Schedule 11 of the Employment Protection Act 1975, which applied similar provisions generally, has now been repealed.

(ii) It cuts against competitive quotes for Government contracts and can, therefore, increase public expenditure; and this has happened, notably, with British Shipbuilders and British Aerospace and with Northern Ireland companies in public ownership.

4. Unless, however, the Government were to denounce the ILO Convention prematurely, which would be unprecedented, it would be necessary to wait until September 1982 for denunciation and to September 1983 for the repeal to take effect. This arises from the apparently odd procedure whereby ILO Conventions can be denounced only at 10-year intervals. On the assumption that no action can be taken before September 1982, the Secretary of State for Employment argues that there is no point in making an announcement now. In his view, to do so would provoke a long running row with the unions at a time when the FWR is not causing much difficulty in practice. He also advises that any options for change, short of total abolition, would not be satisfactory: as he sees it the only real alternative to repeal in 1983 is to leave the FWR unchanged.

HANDLING

5. After the Secretary of State for Employment has presented his paper you might invite the Secretary of State for Industry to reply. The other Ministers who have joined in the correspondence - the Chief Secretary, the Secretary of State for Northern Ireland, and the Secretary of State for Employment - will all wish to comment.

6. In discussion you might consider the following questions:-

(i) Do the Committee agree that there is no real option between total repeal and retention? (Paragraph 29 of the Report by officials).

(ii) Is it open to the Government to denounce the FWR with immediate effect? (Paragraph 18 of the Report by officials suggests not but the point needs to be established beyond doubt).

(iii) If it is the case that denunciation is not needed before 1982 and cannot take effect before 1983, should a decision be taken and announced now or should the matter be deferred to 1982?

(iv) If the Committee want to clear the matter now, is the decision to be for denunciation or retention?

CONCLUSIONS

7. In the light of the discussion you will wish to record one of four conclusions:-

Either (i) to denounce ILO 94 now, if this is practicable;

Or (ii) to announce now the Government's intention to denounce ILO 94 in September 1982;

Or (iii) to defer decisions on the future of the FWR to the beginning of 1982 when the Secretary of State for Employment would make further proposals in the light of experience;

Or (iv) to ask the Secretary of State for Employment to produce specific proposals, short of abolition, to mitigate the adverse impact of the FWR on employers.

RtA

Robert Armstrong

17th February 1981

17 FEB 1981

CONFIDENTIAL

17 February 1981
Policy Unit

PRIME MINISTER

WAGES COUNCILS

1. E Committee will be discussing Unemployment and Young People next week.

2. The CPRS report on youth unemployment (E(81)22) suggests (paras. 45-47 and A11) that some young people have been priced out of jobs by a narrowing differential with adult rates of pay. Accordingly, para. 48(ii) suggests that excluding juveniles from the scope of Wages Councils awards could help to boost youth employment.

Previous Discussions

3. The majority view of E(EA) last November was that Wages Councils should be retained, but that the Secretary of State for Employment should see whether young people and part-time workers could be exempted from the scope of Wages Councils awards. In our view, this suggestion amounts to an admission that the effect of Wages Councils is probably harmful. We understand that it is very unlikely that a way of exempting young people will be found. We think the correct solution is simply to abolish Wages Councils.

4. Do we think that Wages Councils help the 2.75 million people that they cover? If they do raise wages above the market level in the industries concerned, they must raise unemployment. They can only benefit the employed at the expense of the unemployed.

5. Studies have shown that the overlap between low pay and poverty is small.* Many of the low wage earners affected by Wages Councils are married women or young single men. The poor, by contrast, are typically larger families where there is only one breadwinner. So the supposed beneficiaries are not the poorest section of the community, and can only gain at the expense of preventing other people, including heads of households, from getting a job.

New Information

6. The National Federation of Self-Employed and Small Businesses recently published a well-researched commentary on the effects of the Wages Council system on jobs. Employment Ministers have been questioned in the House, and Mr John Townend has sought to introduce a Bill curbing

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* R Layard, Centre for Labour Economics at LSE.

them. A summary of the booklet is annexed. The Federation has backed up its points; we will not repeat all the arguments here.

7. There is strong evidence that in the USA, paradoxically, minimum wage laws have hit poor, unskilled blacks hardest of all. If as a result of poor educational facilities and lack of experience, these people have less to offer an employer, he will only employ them if he can pay them less than others. A minimum wage law prevents this. Instead, a price is fixed artificially, causing the employer to choose the best qualified. In effect, the law says to a young, inexperienced and unskilled person: "You are not free to price yourself into a job". As a result, black youth unemployment in the USA is now 40%, while the white youth rate is 16%. But in 1948, before this misguided legislation was introduced, unemployment among black and white youths was equal. (Of course, the black youths tended to earn less, reflecting their adverse starting point.)

The Case against Abolition

8. It was argued at E(EA) that Wages Councils probably did not do much harm and that it would be hard to explain a decision to abolish them. Of course, there would be many attempts to misrepresent such a decision. It would be necessary for Government Ministers to fight and win the argument. We think this could be done, especially if the announcement were linked with other employment measures. It is completely consistent with everything we have said and stand for that people - especially the young and unskilled - should be free to price themselves into jobs. There is no need to be afraid of spelling this out. It is all part of replacing economic myth with economic reality.

Recommendation

9. We recommend that the Government should take an early opportunity to announce its intention to abolish Wages Councils - coupled with an announcement on other measures on training and youth employment. If Ministers judge that winning the ensuing propaganda war is impossible, a second best solution would be to leave Wages Councils intact for establishing terms and conditions of work, but to remove their wage-fixing power.

10. I am copying this minute to members of E, Robin Ibbs and Sir Robert Armstrong.

JOHN HOSKYNS

Summary

[1] Wages Councils were mostly set up in the 1920's to protect workers from 'sweatshop' conditions and low rates of pay in fragmented industries that were hard to organise. Because of rapid advances in communications and centralised collective bargaining, they are no longer necessary.

[2] Nevertheless, Wages Councils have the power to fix minimum wage rates for 2.7 million workers in every trade from haberdashery to hotelkeeping. Their awards have the power of law, and employers can be subject to large fines for underpayment.

[3] Over the last few years, Wages Councils have used their statutory powers to force wages increases on employers that are far ahead of the rate of inflation, of wage rates in comparable industries, and of average wages in the economy as a whole.

[4] Wages Councils have forced up the real cost of labour considerably by insisting on increases well above average for younger workers, and by reducing the length of the working week.

[5] The effect of this has been to cause unemployment. The worst affected have been women, school leavers, and ethnic minorities, who have all found themselves priced out of jobs. The Government should realise that it must encourage people to create jobs, not make it more difficult, as is the effect of Wages Councils' awards.

[6] Wages Councils entail an expensive secretariat and enforcement arm. They add further costs to businessmen and consumers because of increased paperwork. Many Wages Council awards are difficult to interpret and understand, causing further administrative difficulties for traders. The powers of the inspectorate are sweeping.

[7] Wages Councils are nevertheless inefficient, and often allow far too little time for those affected by their decisions to lodge objection.

[8] Awards can be backdated, so that traders never know exactly where they stand with respect to labour costs. This makes efficient budgeting impossible, driving down profit margins and reducing the number of new firms entering each industry – or making extra costs for the consumer. There is an overwhelming pressure from small businessmen for longer periods of consultation, a less offhand approach from inspectors, and the ending of backdated awards.

[9] Wages Councils have outlived their usefulness, have an adverse effect on trade and employment, and ought to be abolished. In the meantime, they should be reformed, made more representative, reduced in scope and made aware of their harmful effects.

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Ind Pol 1

NORTHERN IRELAND OFFICE
GREAT GEORGE STREET,
LONDON SW1P 3AJ

SECRETARY OF STATE
FOR
NORTHERN IRELAND

11 February 1981

The Rt Hon James Prior MP
Secretary of State
Department of Employment
Caxton House
Tothill Street
London
SW1H 9NA

Dear Jim,

FAIR WAGES RESOLUTION (FWR)

Thank you for copying to me your letter of 15 December to Keith Joseph enclosing a report by your officials of a review of the Fair Wages Resolution. I have also seen Keith Joseph's reply of 12 January 1981. I have delayed writing since, as the agenda then stood, I would have been present at the discussion in E Committee.

The Fair Wages Resolution has enabled workers in Northern Ireland successfully to claim terms and conditions of employment corresponding to those enjoyed by their counterparts in Great Britain - at times without regard to the circumstances of their own employers, to the general level of earnings in the Province, or to comparative costs of living.

The fact that employees can resort to the Resolution tends to diminish responsibility in wage bargaining and to undermine the credibility of the negotiating machinery. The Management of both Harland and Wolff and Shorts have complained that the FWR disrupts productivity bargaining and differentials. Both these two companies are of course in public ownership and they are far from profitable.

Repeal of the FWR will not lessen aspirations in the Northern Ireland workforce for parity of pay with workers in Great Britain. It would however leave management free to negotiate within its means, and more able to resist claims it cannot afford to pay.

Given the alternative of no change or repeal, I would support repeal, and an announcement of our intentions at an early date.

I am/....

I am sending copies of this letter to the Prime Minister and to members of E Committee and to Sir Robert Armstrong.

Yours ever

Humphrey

C

CHIEF SECRETARY TO THE TREASURY

Treasury Chambers, Parliament Street, SW1P 3AG

Rt Hon James Prior MP
Secretary of State
Department of Employment
Caxton House
Tothill Street
London SW1

28 January 1981

Dear Jim,

REVIEW OF THE FAIR WAGES RESOLUTION

Thank you for sending my predecessor a copy of your letter of 15 December.

I agree with Keith Joseph (his letter of 12 January) that we should have an early discussion of this topic, for the reasons he gives. If we decide that repeal is the right choice, then now may well be the right moment to make the change, even if it cannot take effect before 1983. We might also want to make partial changes in the interim. Delay in my view forecloses the options, and possibly prejudices the outcome.

I am sending copies of this letter to E Committee colleagues, to Humphrey Atkins, and Sir Robert Armstrong.

Yours ever,
Leon

LEON BRITTAN

B 2

DEPARTMENT OF INDUSTRY
ASHDOWN HOUSE
123 VICTORIA STREET
LONDON SW1E 6RB
TELEPHONE DIRECT LINE 01-212 3301
SWITCHBOARD 01-212 7676

Secretary of State for Industry

12 January 1981

The Rt Hon James Prior MP
Secretary of State for Employment
Department of Employment
Caxton House
Tothill Street
London SW1H 9NA

cc Mr Hodgson
Mr Lankester

Agree Minister

To note that there is disagreement about whether the Fair Wages Resolution should be repealed. An E discussion is called for.

FAIR WAGES RESOLUTION (FWR)

Flag A

1 Thank you for your letter of 15 December about the future of the FWR.

2 The merits of the case lie solely on the side of repeal. As you say compulsory wage fixing, based on the principle of comparability, is contrary to our philosophy that wages should be determined between individual employers and their employees. Any effect of the FWR must tend to increase industry's costs (and since we are concerned with public contractors, hence to increase public expenditure), to distort wage differentials and to reduce employment. It would be totally inconsistent for us to retain the FWR when we have just abolished the exactly similar machinery provided by Schedule 11 of the Employment Protection Act.

3 Nor am I convinced that the benefits of "repealing" the FWR would be as small as your officials' paper suggest. While claims may have been more common during periods of pay policy, the wide range of pay settlements in the current economic circumstances including our restraint of pay in the public sector must surely provide the trade unions with some points to attack in future. In particular they will be on the alert for opportunities of this kind following the TUC's advice in their leaflet "Bargain to Beat the Employment Act" to use the FWR to the utmost as a substitute for Schedule 11. And of course some individual employers, including British Shipbuilders, suffer disproportionately from the existence of the Resolution.

4 I hope that international considerations are not such as to prevent our taking whatever decision on this essentially domestic matter we believe to be right. Withdrawal from the ILO Convention under the procedure provided by that Convention should not in

/itself ...

itself attract much criticism especially as three other major Western European countries are not parties to it. The UK has denounced other ILO conventions before. We should be able to withstand TUC opposition to the repeal.

5 In my view therefore we should go for repeal. Given the constraints in the ILO Convention I can see the attractions of delaying the announcement of this decision. On the other hand, announcing now, and perhaps approaching Parliament now for authority to repeal the FWR in 1983, might have the advantage of getting any major row over with while the public attitude towards pay moderation is so favourable.

6 An early, firm announcement would also enable us to consult industry on whether or not to introduce in the meantime any of the partial relaxations permitted within the terms of the Treaty and discussed in Appendix 1 to the paper. We should not assume without consultation that none of the proposals are worthwhile; some may be welcome. In addition we should always give industry as much notice as possible of changes affecting them.

7 Because the case for delaying the decision is not clear-cut I suggest that your letter should be the subject of an early collective discussion — perhaps at E.

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

Yours ever,

Keith

SF

E

cc Mr Ingham
M. Walters

2 MARSHAM STREET
LONDON SW1P 3EB

My ref: H/PSO/19706/80

Your ref:

8 JAN 81

Dear James

REVIEW OF THE FAIR WAGES RESOLUTION

Thank you for sending me a copy of your letter of 15 December to Keith Joseph, enclosing the report by officials reviewing the Fair Wages Resolution.

My Department's experience of the operation of the Resolution, principally in relation to PSA and local government contracts, supports your conclusion that its practical effect is minimal. I agree therefore that there appears to be no pressing need for change and am content with your proposal to leave things as they are and review the position again when appropriate.

Copies of this letter go to the recipients of yours.

yours ever

Michael

MICHAEL HESELTINE

The Rt Hon James Prior MP

Item 3. A

SECRETARY OF STATE FOR EMPLOYMENT

Caxton House Tothill Street London SW1H 9NA
Telephone Direct Line 01-213 6400
Switchboard 01-213 3000

NBPM yet

Rt Hon Sir Keith Joseph Bt MP
Secretary of State for
Industry
Department of Industry
Ashdown House
123 Victoria Street
LONDON SW1

c/ M Forsyth ✓

TL 16/12

15 December 1980

Dear Keith

REVIEW OF THE FAIR WAGES RESOLUTION

In earlier correspondence about reviewing the Fair Wages Resolution (FWR) we agreed that officials should examine and report on the issues including timing considerations. The attached report reflects consultations which have taken place between my officials and those of other Departments, and presents conclusions on which they reached general agreement.

The report's main conclusion is that there are only two realistic options:

(i) to repeal the FWR completely after denunciation of ILO Convention 94 (which could not take effect before September 1983);

(ii) to leave the Resolution unchanged.

The arguments for and against each of these courses are set out in the report. The advantage of total repeal is that it would be a straightforward and effective solution, consistent with our general policy and with our repeal of Schedule 11 of the Employment Protection Act 1975. The disadvantages are, first, the three year delay before such a decision could become effective, and secondly the political difficulties which repeal would undoubtedly create. On the first point, we accepted in earlier correspondence that we could not lightly set aside our international obligations and denounce Convention 94 out of time, particularly as the UK appears to have been one of the chief initiators of the Convention. Repeal of the FWR could not therefore take effect before September 1983, although any intention to repeal would need to be announced 12 months or so earlier.

The second consideration is the political difficulties which would inevitably result from a decision to repeal the FWR. A case for repeal can be made, on grounds similar to those on which we repealed

Schedule 11. However, the FWR differs from Schedule 11 in that it relates directly and specifically to Government contracting policy. It reflects a long-standing tradition, dating back to 1891, that the Government has special obligations to ensure that employees of its own contractors are fairly treated, and that the basis of competition for contracts is fair in all respects. Repeal would unquestionably attract strong opposition from the TUC. Departure from an international standard, even in accordance with the rules for denouncing a convention, would not of course escape criticism (this was not a consideration that arose in connection with the repeal of Schedule 11 which had no international implications of this kind.) Unequivocal support for repeal from the CBI is unlikely, and some employer organisations would be very critical as they were over the repeal of Schedule 11.

Officials have considered various options for change short of total abolition, but it seems clear that none would be likely to prove satisfactory. The only real alternative to repeal in 1983 is to leave the Resolution unchanged. This raises the question whether to do so would harm our economic strategy or seriously impede employers in their efforts to restore a sense of reality to pay bargaining. Present evidence suggests that the effect of the FWR is minimal. Only 39 FWR claims were made in 1980 up to the end of October and the numbers are continuing to decline. The Resolution has only been extensively used during periods of rigid pay policy in the 1970s - a point made clear in Appendix 2 of the attached paper.

On present evidence I think the balance of the arguments points to leaving the Resolution unchanged. However, there is no need to come to a final decision now. Because of the international constraints repeal could not be affected before mid-1983, and nothing would be gained by announcing a decision at this stage. I suggest therefore that we look at the matter again in about a year's time, in the light of continued monitoring of the use made of the FWR.

I am copying this letter to other members of E Committee, to Humphrey Atkins, and to Sir Robert Armstrong.

, AC

RESTRICTED

FAIR WAGES RESOLUTION: OPTIONS FOR REFORM

Note by the Department of Employment

1 This note examines the scope for "amending" or "repealing" the Fair Wages Resolution 1946 (FWR). Since the Resolution is not legislation but a declaration of the will of Parliament, neither of these terms is strictly accurate; but it is convenient to refer to possible amendment or repeal in this sense.

2 As a preliminary to examining the options for the Government, the note contains a short description of the FWR (paras 3-6) and how it has been applied (paras 7-16).

The 1946 Resolution

3 The House of Commons first adopted a Fair Wages Resolution as long ago as 1891; the current version dates from 14 October 1946. The intention of the FWR is to ensure that employers engaged on Government contracts should pay rates of wages and observe conditions of employment not less favourable than those established by negotiation or observed in practice by other employers in the industry. The FWR is brought into operation by the inclusion in Government contracts of a standard condition calling upon a contractor to observe its conditions.

4 The FWR has two main legs (which were subsequently reflected in the structure of Schedule 11 to the Employment Protection Act, recently repealed). The first is that contractors are required to observe terms and conditions "established for the trade or industry in the district" by representative joint negotiating machinery or arbitration. Secondly, in the absence of such established terms, contractors must observe terms no less favourable than the "general level ... observed by other employers" whose general circumstances in the trade or industry are similar. The Resolution specifically applies to conditions of work (including hours) as well as to wages.

5 If an issue arises whether or not the FWR is being applied by an individual contractor, the matter is referred to the Secretary of State for Employment. The FWR requires that, if not otherwise disposed of, such questions must be

referred by him to an independent tribunal (in practice the Central Arbitrati Committee) for decision. In considering whether the FWR has been applied, the CAC does not act in a statutory capacity and its decisions are not legally enforceable. Neither is there any provision for appeal, beyond the general jurisdiction exercised by the High Court in relation to the activities of junior tribunals. It is up to the contracting Department concerned to take any action considered necessary to remedy failure to observe the FWR where this is established. Normally however contractors simply comply with the terms of CAC awards.

6 The FWR also contains a number of minor provisions. Clause 4 provides that contractors must recognise the freedom of their work-people to be members of trade unions. Clause 6 requires them to accept responsibility for the observance of the Resolution by their sub-contractors. The full text of the FWR is at Appendix 4.

Northern Ireland

7 In addition to the use of the FWR in contracts between Northern Ireland companies and UK Government departments and nationalised industries, Northern Ireland has in existence a Fair Wages Resolution of the House of Commons of Northern Ireland, dated 1947, which is identical to the 1946 resolution and applies to contracts of Northern Ireland Government departments and local authorities. Any changes in the 1946 resolution would require similar action in respect of the Northern Ireland Resolution.

Extension of FWR to non-Government contracts

8 The FWR itself is concerned only with Government contracts. The principle of the Resolution has, however, been widely extended so that in practice most nationalised industries and public corporations include some form of fair wages clause in their contracts. In some cases these clauses reproduce the FWR without significant changes; in others there are differences eg no direct reference is made to arbitration. But these modifications have little practical effect; for example where the clause does not specify arbitration the contracting body normally approves use of this mechanism. Some contractors (eg the CEGB) do not consider individual cases but give blanket approval for FWR applications to be sent to the CAC via the Department of Employment.

Current enactments referring to the FWR

9 The principle of the Resolution has also been embodied in a number of Acts which provide assistance to particular industries or public authorities by way of grant, loan or subsidy, guarantee or licence. The Housing Act 1957 (section 92(3)(a)), the Road Traffic Act 1960 (section 152), Films Act 1960 (section 42) and Independent Broadcasting Authority Act 1973 (section 16) are the last remaining. Section 15 of the Civil Aviation Act 1949 which provides for terms and conditions to be determined by reference to those of other similar employees (though not in the words of the FWR) will be repealed under powers in the Civil Aviation Act which has now received Royal Assent.

Use of the FWR

10 The main use of the FWR has been in relation to terms and conditions of employment under clause 1(a) (established terms) and 1(b) (general level). Table I of Appendix 2 shows the annual number of claims made between 1959 and 1979. Table 2 gives a more detailed breakdown of the claims made over the last five years. Table 3 provides a month-by-month breakdown of claims in 1979. Appendix 3 lists the main unions involved.

11 All the tables show a rise in the use of the FWR in periods of incomes policy. Since last year the rate of claims has fallen back substantially nearer to the low levels of the years before 1976. The vast majority of recent years have been under the "general level" provision. Most awards affect small numbers of people (some relate to a single individual). Some industries have been much more seriously affected than others. British Shipbuilders and British Aerospace for example have borne a large proportion of the larger awards in the last few years. There have also been one or two large awards in the private sector eg Boots and USDAW in 1977 affecting some 6,000 employees (though this was a reference brought by the employer himself).

Costs

12 It is very difficult to give an estimate of the cost to industry of FWR awards. A few companies have reported substantial costs, for example British Shipbuilders reported costs of about £21 million arising from FWR awards against their subsidiaries between vesting day (14 June 1977) and 1 January 1979. British Shipbuilders was particularly vulnerable to FWR claims at this time

because it inherited a fragmented wage structure among its subsidiaries and undertook a substantial proportion of its work under Government contract. However since 1979 when a national pay agreement was introduced, the level of claims has been much lower. Another company which has found the cost of FWR awards a significant burden is Alfred Herbert Ltd, who attributed costs of about £2.1 million to the effect of FWR awards in 1977. However Ministers have in general received very few representations from employers about the cost of FWR awards, and the examples given illustrate the minority of cases where, because of the numbers of employees involved, and the number of claims made against a single employer, costs have been substantial. Records of the costs of FWR awards to individual companies are not kept, but even if they were, it would be difficult to distinguish between 'gross' and 'net' costs. For example, it would be hard to quantify to what extent, FWR awards are substituted for 'normal' pay settlements, particularly during periods of periods of pay policy. One indicator that this has happened is the number of claims submitted by employers - these totalled 74 (13% of all claims) in 1978, and further claims were submitted jointly by employers and unions. Similarly it would be difficult to judge to what extent benefits such as improved productivity resulting from the CAC linking awards to changes in working practices or a company's pay structure should be offset against the gross cost of an award. The only general conclusion which is likely to be valid is that successful FWR claims, even in the years when the Resolution was most extensively used, constituted only a tiny fraction of the total wage bill, but that this did not prevent the Resolution being at that time a serious problem for certain particularly vulnerable concerns.

13 It is also hard to judge what effect the FWR may have had on employers not subject to claims. The existence of the FWR may have operated to encourage contractors to observe collective agreements or the "general level" so as to avoid possible claims. This effect can however be exaggerated insofar as most contractors will normally observe minimum conditions laid down in national agreements in any case; and the operation of the labour market will tend to ensure that terms and conditions generally do not fall far below the "general level" in the district.

Clause 4

14 Few cases have been brought under Clause 4 (freedom of work people to be members of a trade union). 8 claims were made to the Industrial Arbitration Board (which preceded the CAC as the body adjudicating FWR claims): none succeeded, even where advertisements specified "non-union operatives". The case of Wiseman & Co and ASSET (1964) established that the clause did not convey a right to recognition for negotiating purposes. The clause must in practice be seen as at most protecting the right of the individual to join a trade union, and to that extent designed to encourage the growth of trade unionism and collective bargaining.

15 Since clause 4 has given trade unions little material assistance in the past, it is unlikely that any strong representations will be advanced for retaining it in its present form. Trade unions in the public sector have sometimes complained that the clause should operate to inhibit the use of contractors employing non-union labour but their complaints have invariably been rejected. Review of the FWR might nevertheless be seized upon by the TUC as an opportunity to urge the reinstatement of some form of statutory negotiation provisions of general application.

Relationship to Schedule 11

16 There is no reason to suppose that repeal of Schedule 11 will greatly affect the extent of recourse to the FWR. Even when Schedule 11 was available there were advantages in claiming under the Resolution. For example under Schedule 11 only a trade union or employers' association could make a claim, while under the FWR a claim could be entered by anyone. Moreover the CAC was restricted by the Deltaflow judgement (1977) in its interpretation of the phrase "general level" under Schedule 11, but has continued to adopt a more liberal approach under the FWR (see para 20 below).

ILO Convention 94

17 The United Kingdom has ratified ILO Convention No 94 (concerning Labour Clause in Public Contracts) the wording of which corresponds very closely to the FWR. The UK Government appears to have been one of the chief initiators of the Convention and this would no doubt give weight to international and domestic cirticism if the Government were now to withdraw its support. UK employer representatives however opposed the adoption of a Convention and would have

preferred ILO guidance to have been confined to a "Recommendation" imposing less stringent obligations, on the grounds that differing industrial relations structures made rigid application of a detailed Convention unrealistic.

18 Complete repeal or radical change of the FWR would require denunciation of the Convention. It would be possible to denounce the Convention; there is a formal procedure for doing so. This can be used however only at 10 year intervals. The next date on which it will be possible to denounce Convention 94 will be 20 September 1982. Denunciation would take effect one year after that. The UK has denounced four Conventions since 1919, most recently in 1971 when the Government wished to charge for PER but had ratified a Convention requiring a free public employment service.

19 Examination of overseas practice suggests that tighter national bargaining arrangements existing in other countries make possible recourse to a separate "general level" of pay and conditions largely irrelevant. In France provision exists for the prefect of the region or department concerned to determine wages for workers on Government contracts by consultation with representative employers and trade union confederations. Usually, however, government contractors are bound by the terms of national agreements extended by an "arete" of the Minister of Labour. Of West European countries, West Germany, Sweden and Switzerland have not ratified Convention 94. Brazil denounced Convention 94 in 1973.

OPTIONS FOR CHANGE

Total repeal

20 If the Convention is denounced, there would be no point in going for a solution less than total repeal. This could be justified on the basis of the Government's general policies in relation to collective bargaining and would be seen as a logical follow up to repeal of Schedule 11. The Government could argue, as it did with Schedule 11, that current circumstances are completely different from those in which the Resolution was passed. The House of Commons

Debates in 1946 show that the FWR was conceived as reinforcing collective bargaining. The Government could argue that the subsequent development of collective bargaining has made the FWR obselete. Competition policy as applied through current monopolies and fair trading legislation, combined with the growth of trade union organisation is adequate to counter possible claims of unfair competition by individual contractors. The Government could quote in support the fact that those industries making most use of the FWR have been amongst the most heavily unionised (even though the FWR does not restrict claims to those made by trade unions). This suggests that the FWR is either an unnecessary adjunct to free collective bargaining or that it is ineffective in the unorganised "sweat shop"; or that both of these conclusions are true.

21 The Government could also point to comments by the Association of County Councils on the Working Paper published last September suggesting that the FWR is irrelevant to modern conditions:

> "It is felt that Local Authorities are sufficiently responsible to ensure that they do not avail themselves of the services of a contractor who clearly is not observing the practices that might be expected of a reasonable employer. It is also felt that nowadays employees are adequately protected not only by the law but by the vigilance of their trade unions against the practices which the FWR, which is over 30 years old, was passed in order to combat."

Comments received from the Society of Chief Personnel Officers in Local Government showed that they also considered the FWR irrelevant to modern conditions.

22 A strong case can therefore be made for total repeal. As para 16 above indicates, however, Convention No 94 cannot be denounced until September 1982. Denunciation before time would be unprecedented. It would be monitored by the ILO and published in its annual reports on infringements. The TUC have already indicated they would make political capital out of this failure to stand by an international agreement; it would give them a further issue on which to criticise the Government.

23 Even if denunciation was undertaken in 1982 according to the rules, the Government would not of course escape criticism. This would come from both the supporters and opponents of the FWR. The Resolution's supporters would argue that the Government was abandoning an internationally recognised minimum protection. Employers who favoured retention of the "first leg" of Schedule 11

might use a debate on the FWR as an opportunity to revive the issue thus add[redacted] to the Government's embarrassment. At the same time the opponents of the Resolution would no doubt be irritated by the delay in securing its removal.

Ensure precedence of clause 1(a) over 1(b)

24 This option is a less radical alternative that could be put into effect without denouncing the Convention. It is the option favoured by the CBI and EEF. Essentially it would require a drafting amendment which would bring the FWR wording more closely into line with that of Schedule 11. This would make it absolutely clear that paragraph 1(a) referred to minimum terms and conditions agreements, such as the National Engineering Agreement. Where such an agreement existed, employees could not have recourse to the "general level" under clause 1(b). The cases it would not catch would be those based on national agreements. Ford has for example expressed concern that the FWR could be used to import into individual companies concessions made under national agreements eg the 39-hour week.

25 Hitherto, following precedent established by the Industrial Arbitration Board and most clearly enunciated in Crittal-Hope and the Pay Board (1974), the CAC has insisted on applying paragraph 1(a) of the FWR only where terms and conditions are shown to be "established" in the district. This is despite a High Court judgement, in Racal v Pay Board (1974), that minimum rates embodied in national agreements do in fact constitute the standard prescribed by paragraph 1(a). The effect of this interpretation can be seen from the statistics: between 1946 and 1970 not a single FWR claim was made on behalf of manual workers in the engineering industry. The rates/earnings gap and strong trade union organisation were no doubt both factors. In 1979 however 173 out of 240 awards related to the engineering industry, the vast majority of which were based on the general level (though some of these related to non-manual workers).

26 Such an amendment would of course require Parliamentary debate. Trade union opposition might be relatively muted as the change falls short of total repeal and could be defended as an attempt to return to the original intention of the FWR. But this option is open to serious objection. It would leave the FWR in existence, and the CAC with a "rump jurisdiction" which would be restricted in size but could still be damaging. There could be no certainty how an amendment would in practice be applied. This option could not in any case meet problems of the kind anticipated by Ford.

27 Above all, however, it would be extremely difficult to reconcile amendment along these lines with the repeal of Schedule 11. Ministers argued on that occasion that managements and trade unions should be left to negotiate the terms and conditions best suited to their particular circumstances and should not be subject to a statutory mechanism such as the Schedule. The FWR is, of course, not statutory but in other respects resembles the Schedule; indeed, the effect of this amendment would be to bring its operation still closer to that of the Schedule. The only basis on which the FWR might be distinguished is that the Government owes a special obligation to the employees of Government contractors; but this would hardly be found a convincing argument.

Other options

28 Some other suggestions for reform of the FWR, are considered in Appendix 1. None of them, however, nor any combination of them, could be regarded as in themselves constituting worthwhile change in the Resolution whether for the shorter or longer term. Several of them would while achieving little of substance, attract hardly less political controversy than radical reform. They do not go to the heart of the concerns expressed about the FWR.

Conclusions

29 It seems, therefore, that no form of amendment or reform of the FWR short of its total abolition ould be likely to prove satisfactory. The choice appears to be between total abolition of the Resolution or leaving it unchanged. There is no sensible middle course.

30 The advantage of total repeal is that it is a straightforward and effective solution which is consistent with the Government's delcared policy. The disadvantages, apart from the inevitable delay, lie in the political difficulties which repeal would undoubtedly create. TUC opposition to repeal would unquestionably be strong and unequivocal support from the CBI is unlikely to be forthcoming. It is also worth emphasising that the practical gains from repeal of the FWR are not likely to be great. Up to October 31 there had been only 39 FWR claims in 1980 and the numbers are continuing to decline.

31 Recent TUC advice to unions entitled "Bargain to beat the /Employment/ Act" refers to the FWR and suggests that unions should also negotiate "fair wages" clauses with large private employers for inclusion in their commercial contracts. In these circumstances it is a matter for judgement whether the limited economic

benefits to be expected from repeal of the Resolution outweigh the further damage to relations with the trade union movement (and possibly with our partners in the ILO).

32 A decision that Convention No 94 should be denounced could not be implemented before September 1982, ith the FWR being repealed 12 months later, it seems desirable that such a decision should wait until nearer the time, when the balance of argument can be assessed in the light of all the circumstances then obtaining and the experience of claims meanwhile. To issue a further formal document as a basis for consultation with employers and unions would be likely to prove a waste of time since the issue is clearly defined and TUC and CBI opinion is not in doubt. It would also attract further interest in the FWR by both employers and unions, to which the Government would be unable to respond to the satisfaction of either.

Department of Employment
IRD
December 1980

OTHER OPTIONS

End inclusion of FWR in Local Authority and other non-Government contracts

1 The FWR applies only to national Government contracts. Section 735 of the local Government Act 1972 however requires that all contracts made by local authorities must be in accordance with their Standing Orders. Current Model Standing Orders, issued by the Department of the Environment in 1964, include a fair wage clause in terms of the House of Commons FWR. If the FWR was repealed, the Standing Orders for local authorities would have to be amended to bring them into line. In addition the Housing Act 1957 (Section 92(3))a)) requires local authorities to include a clause based on the FWR new housebuilding contracts (see para 3 below). To remove the fair wage clause in Local Authority contracts by itself, however, without repealing the FWR would have little effect at the table below shows. It might also attract political opposition from Labour controlled Authorities.

PERCENTAGE OF CLAIMS FROM CONTRACT SOURCE (ROUNDED FIGURES)

	Local Authorities	Nationalised Industries	Fringe bodies	MOD	Other Government Departments	Total
1977	2	26	-	58	15	101
1978	2	21	2	68	7	100

In 1979 only 6 out of 135 claims stemmed from Local Authority contracts.

2 Claims are in practice based on whatever current contract is most readily accessible. Experience suggests that most firms with a Local Authority contract against whom a claim is brought also posses an MOD or other Government contract. Nationalised industries on the other hand often deal with specialist firms (eg National Coal Board contracts for mining equipment) who would have no Government contract to substitute. But at current rates of claim the effect of removing fair wages clauses from nationalised industry contracts would be marginal.

Repeal of legislation containing references to FWR

3 The following legislation includes provision for the determination of questions about terms and conditions by specific reference to the Fair Wages Resolution:

(i) Housing Act 1957 (section 92(3)(a))

(ii) Films Act 1960 (section 42)

(iii) Road Traffic Act 1960 (section 152)

(iv) Independent Broadcasting Authority Act 1973 (section 16).

Repeal of the FWR would render these provisions ineffective. Their separate repeal is essentially a matter for responsible Departments and would require primary legislation. They have generally been little used (although 32 claims have been made this year under the IBA Act).

Government statement that it will "ignore" FWR

4 Since the FWR is not statute it is probable that the Government could ignore it without legal challenge. It would however presumably need to make a statement in the House to the effect that it regarded the FWR as an anachronism and the administrative procedures for handling claims would cease to operate. The Opposition would no doubt press for a debate on the grounds that the Government were going against the expressed will of the House. The Government would be accused of seeking to act unconstitutionally. The international constraints would not be avoided or diminished. There is therefore nothing to be gained by this course. It would also be left, rather precariously, to the CAC or the High Court to determine whether or not the Resolution was "in force" for the purpose of the provisions referred to in para 3 above.

Amend general level

5 The EEF proposed that a company should only be held to be observing terms and conditions below the "general level" if, taken as a whole, they were found

to be below what all, or nearly all, similar companies were observing in the district. This is presumably designed to distinguish the idea of the "general level" from that of an average. It is however quite uncertain how such an amendment might work in practice. It might do little to reduce the number of claims but their outcome would be rendered more uncertain. The definition of "district" which the CAC is sometimes content to leave blurred would become critical. It would be difficult for the Government, having repealed the "general level" provision of Schedule 11, to seek to amend the concept for FWR purposes.

Exclusions

6 ILO Convention No.94 permits a number of exclusions to be made from its scope. These include:

(a) contracts for small amounts;

(b) non-manual employees in management, technical, professional and scientific grades;

(c) temporary suspension of the provisions' operation in case of national emergency.

Such exclusions could be imported into the FWR without breach of the Convention. They would however be likely to have only limited practical effect. It is inconceivable for example that the Government would be prepared to declare an indefinite suspension of the FWR's application on the grounds that the national welfare was at stake. The TUC would need to be consulted about the cut-off for "small" contracts. Since large contracts would anyway be caught, sub-contractors would not escape on the grounds that their individual contracts fell below the threshold.

7 As with other suggested "intermediate" options, such changes would satisfy neither employers nor unions. If offered as the best the Government could do

pending denunciation of the Convention, they would seem to reflect a determination to strike without the ability to wound. As long-term changes, they lack any reasoned justification.

APPENDIX 2

TABLE 1.

Fair Wages Resolution 1946

Claims made in the period 1.1.1959 - 30.12.1979

1959	-	nil	1968	-	nil
1960	-	5	1969	-	4
1961	-	2	1970	-	3
1962	-	1	1971	-	2
1963	-	3	1972	-	7
1964	-	nil	1973	-	30
1965	-	1	1974	-	19
1966	-	1	1975	-	6
1967	-	4	Total		88 - Average 5.18 p.yr.

1976	-	122
1977	-	328
1978	-	570
1979	-	135
Total		1155 - Average 288.75 per year

Claims withdrawn or otherwise settled
without a CAC hearing - 214 (in period 1.1.76 - 30.12.79)

TABLE 2 : CHARACTERISTICS OF FWR AWARDS OVER LAST 5 YEARS

Year	No. of Claims	Total Awards	Result of Award.			Type of Awards		
			Estbld.	Estbld. in part	NA establd.	1(a)	1(b)	Others
1975	6	3	-	-	3	-	3	-
1976	122	14	10	2	2	-	14	-
1977	328	114	91	2	21	3	111	-
1978	570	644 *3	378	62	192	116	516	3 jurisdiction awards 11 withdrawn
1979	135	240 *2	152	19	67	5	233 *1	2 withdrawn

*1 Includes one claim that was established under 1(a) also re-consolidated time rates (79/232)

*2 Including two claims withdrawn at or after a hearing.

*3 Includes 3 jurisdiction awards and nine claims withdrawn after a hearing.

APPENDIX 2

TABLE 3 : FWR CLAIMS FEB. - DEC. 1979 *

	Feb	March	Apl	May	June	Jul	Aug	Sept	Oct	Nov	Dec	TOTAL
No. of claims reported	32	24	15	4	10	6	5	3	4*1	1	2	106
Of which No. by employer	2	1	3	-	-	-	-	-	-	-	-	7
Settled or withdrawn	16	5	13	14	7	14	5	9	3	7	17	124

TABLE 4 : FWR AWARDS FEB - DEC 1979 *

	Feb	March	Apl	May	June	Jul	Aug	Sept	Oct	Nov	Dec	Total for 11 Months
No. of awards recd. by DE	58	21	34	27	20	15	39	16	14	4	11	259
Claims establd.	46	12	17	21	10	12	28	11	4	1	2	164
Establd in part	3	4	1	2	3	-	4	3	1	-	1	22
Not estbld	9	5	17	4	6	3	7	2	9	3	7	72
1a	1	-	-	1	2	-	-	-	-	-	1	5
1b*	57	21	34	27	18	15	39	16	14	4	8	253

* 1 1 resurrected case

Detailed records of cases were started only in February, 1979. There were, however 29 claims reported in January 1979 which makes the total number of claims for the year 135 (see Table 2).

APPENDIX 3

MAIN UNIONS INVOLVED : FWR AWARDS 1979

AUEW (E)	53
AUEW (TASS)	50
APEX	36
EMA	27
ASTMS	26
TGWU	21
EETPU	19
ASBSBSW	13

173 out of 240 awards made in 1979 related to the engineering industry. These included 29 concerned with the ship repairing industry, 3 of which were composite awards covering 41 individual references from DE.

THE FAIR WAGES RESOLUTION 1946

1 (a) The contractor shall pay rates of wages and observe hours and conditions of labour not less favourable than those established for the trade or industry in the district where the work is carried out by machinery of negotiation or arbitration to which the parties are organisations of employers and trade unions representative respectively of substantial proportions of the employers and workers engaged in the trade or industry.

(b) In the absence of any rates of wages, hours or conditions of labour so established the contractor shall pay rates of wages and observe hours and conditions of labour which are not less favourable than the general level of wages, hours and conditions observed by other employers whose general circumstances in the trade or industry in which the contractor is engaged are similar.

2 The contractor shall in respect of all persons employed by him (whether in execution of the contract or otherwise) in every factory, workshop or place occupied or used by him for the execution of the contract comply with the general conditions required by this Resolution. Before a contractor is placed upon a Department's list of firms to be invited to tender, the Department shall obtain from him an assurance that to the best of his knowledge and belief he has complied with the general conditions required by this Resolution for at least the previous three months.

3 In event of any question arising as to whether the requirements of this Resolution are being observed, the question shall, if not otherwise disposed of, be referred by the Secretary of State for Employment to an independent Tribunal for decision.

4 The contractor shall recognise the freedom of his work people to be members of Trade Unions.

5 The contractor shall at all times during the continuance of a contract display, for the information of his work people, in every factory, workshop or place occupied or used by him for the execution of the contract a copy of this Resolution.

6 The contractor shall be responsible for the observance of this Resolution by sub-contractors employed in the execution of the contract, and shall if required notify the Department of the names and addresses of all such sub-contractors.

CONFIDENTIAL

10 DOWNING STREET

7 November 1980

The Rt Hon Sir Keith Joseph Bt MP
Secretary of State
Department of Industry
Ashdown House
123 Victoria Street
LONDON SW1

Dear Keith,

WAGES COUNCILS: E(EA), MONDAY, 10 NOVEMBER

Jim Prior argues that it would be a mistake to abolish wage councils. We think it is important to distinguish the main political and economic judgments involved.

The essential economic question is whether fixing wages for nearly 3 million lower paid workers does or does not produce wage levels different from those which would emerge as a result of market forces. If it produces wages which are higher than would otherwise be the case, it must follow that these arrangements cause unemployment. The higher the price of a commodity, the less of it will be bought. This is a fact of life we are continually trying to get across to the public.

Alternatively, it may be the case that wage councils tend to produce wages outcomes that are very similar to those which would obtain if market forces operated. If this is the case, why are the wage councils necessary?

Of course a decision to abolish wage councils will attract political criticism. If wage councils make little impact, it may not be worthwhile making a major change. But to the extent that they do make a difference, we should face up to the fact that we are ourselves permitting continuing higher unemployment in order to avoid short-term political embarrassment.

If - as seems the case - we are unclear on the extent of their impact on wage levels, the sounder course is surely to abolish them. In our view, the considerations introduced by John Biffen's paper E(EA)(80)57 greatly strengthen the case for abolition. As a fallback we could, as he suggests in paragraph 4, simply abolish their statutory wage-fixing and enforcement powers.

I am copying this letter to the Prime Minister, the Chancellor of the Exchequer, members of E(EA), Robin Ibbs and Sir Robert Armstrong.

JOHN HOSKYNS

CONFIDENTIAL

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SECRETARY OF STATE FOR EMPLOYMENT

Caxton House Tothill Street London SW1H 9NA

Telephone Direct Line 01-213 6400

Switchboard 01-213 3000

12 2B/4

Tim Lankester Esq
Private Secretary
10 Downing Street
London SW1

24 April 1980

Dear Tim.

WORKING GROUP REPORT ON REVIEW OF LOW PAY AND WAGES COUNCILS

As you requested when we met in the House, I enclose herewith a copy of the Working Group Report. My Secretary of States letter to Keith Joseph of 26 March (to which the Prime Minister has already responded) refers to this report.

Yours sincerely

ANDREW HARDMAN
PRIVATE SECRETARY

CONFIDENTIAL

LP (79) 9

WORKING GROUP ON THE REVIEW OF LOW PAY AND WAGES COUNCILS

FINAL REPORT

BACKGROUND

1 In October 1979 Ministers agreed that the review which the Department of Employment (DE) was making of policies towards low pay should be widened so as to examine radical options for the future of Wages Councils. The review has been carried out by DE officials together with representatives of the Treasury and the Department of Industry and Health and Social Security; the Department of Trade has also contributed.

2 Our report is divided up as follows:-

paras 3-9 discuss the arguments for and against state intervention to prevent excessively low pay;

paras 9-21 present some facts about levels of low pay; who the low paid are; what industries and occupations they work in; and about Wages Councils;

paras 22-31 introduce the various policy options open to Ministers and discuss the first option - abolishing Wages Councils without replacement;

paras 32-53 examine the option of a general minimum wage in terms of its benefits and disadvantages, costs and operation;

paras 54-60 consider the effects of retaining the Wages Councils system in its broad outlines but improving its efficiency;

paras 61-63 consider retaining Wages Councils but giving them a duty to set rates such as to maximise employment in their industries.

GENERAL CONSIDERATIONS

3 Any consideration of machinery for fixing a minimum pay level - whether by Wages Councils or another mechanism - has to start from a premise about whether there is any need for State intervention to prevent very low pay.

ARGUMENTS IN FAVOUR OF STATUTORY MINIMUM PAY LEVELS

4 The main argument in favour of statutory minimum pay levels is that these help to prevent exploitative low pay. It is argued that there is general acceptance in this country that wages should be determined by collective bargaining, in which what is argued to be a natural inequality of bargaining power between employer and employee is redressed by collective organisation. In unorganised sectors where collective bargaining does not take place, in a perfectly competitive market a fair market price will only emerge if there is perfect competition. But some employees lack access to a competitive market for their labour, or have disadvantages which prevent them from bargaining effectively - eg immigrant workers who may be ill-equipped to bargain with an employer or ignorant of their market value, those whose mobility is limited by family commitments (eg married women), some disabled people, homeworkers. In such circumstances exploitation may take place. It cannot be quantified; only case-by-case examination - if that - could distinguish exploitative low pay from low pay caused by unfavourable market conditions. But it is prima facie likely that exploitation plays a part in some of the examples of very low pay which come to light from time to time, and they are certainly liable to be seen publicly as such.

5 It is also argued that wage and price under-cutting which might be encouraged by the absence of wage regulation in unorganised sectors may have destabilising effects in some industries by allowing firms to compete on labour costs rather than efficiency. This could hold back improvements in productivity, and ultimately lead to a loss of employment.

6 It is sometimes argued that statutory minima help to alleviate poverty. Clearly this may be so in the case of households dependent on a low-paid bread-winner, and also in so far as low pay may in the long term contribute to poverty in old age through its effect on pensions. But there are two countervailing factors. First, the majority of the poor are not in employment. Secondly, statutory minima may add to poverty by reducing employment opportunities. Their contribution is therefore both limited and ambivalent.

7 Again, it is sometimes argued that low wages are at the root of the problem that for low earners with families net earnings in work may be hardly more, or even less, than net benefits when out of work. Clearly, if minimum wages were higher, out-of work benefits would not overlap them, or would do so much less. But raising relative low pay would not be a cost-effective way of tackling this problem, because it would create pressure for proportionate increases at higher earning levels.

Arguments against statutory minimum pay levels

8 Against the fixing of statutory minimum pay levels it is argued that

a. it is an unwarranted interference with free bargaining in the labour market;

b. it runs counter to the policy that pay bargaining should be governed by what the firm can afford (although Wages Council and Board rates are determined by representatives of the industries concerned);

c. it may price marginal workers out of a job. At a time when unemployment is high, and expected to remain so, it is more important to maximise the employment opportunities available to low-paid workers than to regulate their wage rates. Unemployment is a more potent cause of poverty than low pay. The great majority of low paid workers are women, many of them second-income earners rather than breadwinners, and having a second income is more important to a low earner's family than the precise level of that income;

d. the implementation of statutory minima places an administrative burden on industry and, depending on the type of minimum wage provision may add to Civil Service staff costs.

9 It is also argued that statutory minimum wages are inflationary in that they force employers who would otherwise have paid lower wages to raise their prices and, more particularly, that they exert an influence on the level of settlements for workers not directly affected by the minimum. The extent of this effect will depend on the type of minimum wage chosen. For example, there is no firm evidence that Wages Councils' minimum rates trigger the levels agreed in the non-Council sector (see para 21 below).

FACTS ABOUT LOW PAY

10 By looking at the characteristics and numbers of the low paid, some idea can be gained of whether they are liable to be exploited and whether that is a large problem. It is also useful to have some idea of which industries and jobs are low paying.

11 One definition of low pay is the lowest decile of the earnings distribution of manual men - the level below which 10% of manual men earn. This is the definition used by the Royal Commission on the Distribution of Income and Wealth and by the low pay lobby, who also use - much the same - a level at $\frac{2}{3}$ of average

number of industries with low pay and inadequate collective bargaining (see Appendix 3 for more details). They are designed to operate like normal negotiating bodies, with equal representation of employers and workers, but include independent members who can ensure that a decision is reached. Wages Councils cost about £3.4 million a year to administer. The major part of this cost is attributable to the Wages Inspectorate.

19 Wages Boards and Councils cover some three million workers, mainly in retail distribution, hairdressing, clothing, hotels, catering and agriculture. Some of the workers within scope of Wages Councils and Boards work in relatively well paid occupations within their industries. Wages Councils and Boards do not cover substantial proportions of low paid workers. For instance about two thirds of persons earning less than £1 per hour in April 1979 appeared not to be covered. Some of those not covered are in low paying industries with strong voluntary collective bargaining (eg NHS ancillaries); many are in low paid occupations in generally well paid industries (low grade office staff, caretakers, cleaners etc.); and some are in industries with low pay and weak collective bargaining not covered by Wages Councils and Boards (some service industries).

20 Employers' organisations tend to favour the continuation of Wages Councils and to be critical of proposals to abolish individual Councils. Trade unions are more ambivalent. DE does occassionally receive requests from employers for the abolition of the entire wages council system. These generally come from individual small employers not affiliated to their industry's employers' association, although by no means all small firms are unaffiliated. Various employers' associations representing small businesses are well represented on wages councils. The setting of statutory minimum rates designed to prevent exploitation is liable on occasions to create problems for some employers; and this is particularly true at present when some small businesses are under severe financial constraints. As a result the Wages Council system tends to be blamed for effects which are more correctly attributable to inflation and other underlying causes.

21 (a) Wages Councils are sometimes criticised as agents of inflation. But analysis does not support this criticism. Wages Councils determine only the statutory minima, which are relatively low (see Appendix 3B). Statistics collected since 1972 show that earnings of workers in Wages Council industries have maintained a broadly constant relationship (Appendix 3c). Wages Council settlements tend to follow rather than precede independent voluntary agreements within the sectors they cover and to be at a slightly lower level. For example in autumn 1979 the multiple food retailers made

a settlement with USDAW before the Retail Food Council reached their settlement at a lower level. There is some evidence to suggest that, in the absence of incomes policies, increases in the statutory minimum rate tend to follow and reflect increases which have already occured in the general level of earnings in the trade concerned. Wages Council settlements have their primary effect only on those whose earnings are at or close to the statutory minimum. Their effect on those earning more than the minimum is much less certain.

(b) Wages Councils are sometimes criticised on the grounds that they impose a financial burden on employers. Small firms especially complain that they cannot readily raise their prices and therefore cannot afford Wages Council rates. Small firms are, however, well represented on Wages Councils and the volume of complaints is slight compared with the number of employers covered. Another criticism occasionally made is that increases in Wages Council rates jeopardise employment. This is probably true in marginal cases.

POLICY OPTIONS

22 In the remainder of this paper we examine what options the Government might pursue in the low pay field. We have not attempted conclusions. Option 1 is to abolish Wages Councils without replacement. Option 2 is to replace Wages Councils with a minimum wage on the lines of those adopted by the USA, France or Holland (see Appendix 4 for details of overseas practice.) A variant on this - Option 3 - is to set a minimum which applies to Wages Councils industries but is not an entitlement for all workers. Some countries enable the low paid to seek through arbitration a statutory minimum based on rates established by collective bargaining; Option 4 is to replace Wages Councils with a "low pay standard" obtainable by arbitration. Option 5 is to retain Wages Councils and pursue the present policies of streamlining them with more or equal vigour. Option 6 is to retain them but with a statutory duty to aim to create full employment in their industries.

23 These proposals do not cover the Agricultural Wages Boards. But the Boards serve the same purpose as Wages Councils; the same considerations about whether to keep or abolish them apply; and policies on low pay should apply consistently to agriculture as to other industries.

OPTION 1: ABOLISH WAGES COUNCILS WITHOUT REPLACEMENT

24. Abolishing all wages councils without replacement would bring savings of some £3 million, mostly on the cost of the Wages Inspectorate. The main arguments for and against abolition are set out in paras 4 - 9 above.

25. Direct evidence as to what would happen in the event of abolition is limited. There have been studies of the effects of abolishing wages councils in the past, but they cannot be relied on as evidence about what would happen if the remaining councils were abolished. In the case of disbanded councils there has been some confidence that adequate machinery would replace the councils; this cannot be said of the intractable residue. A recent study of six ex-councils established that some national collective bargaining was set up or continued after abolition but in most cases did not cover all the workers covered by the council; that local bargaining did not spread; that negotiated pay levels did not appear to move far from the level that might have been expected from the wages councils; that wage levels in non-organised sectors were often lower than both negotiated pay levels and contemporary wages council rates; that the national bargains were not enforced, and sometimes even companies in membership of bargaining organisations did not know what they should be paying; that payment below the negotiated levels was found on at least a similar scale to underpayments discovered by Wages Inspectors, and frequently in firms which had previously complied with Wages Orders.

26. What are the chances that adequate collective bargaining would take the place of the remaining wages councils? The possibilities need to be examined industry by industry.

(a) Retail Distribution. There are national agreements covering some sectors, eg supermarket and shoe-shop chains. There is also independent company bargaining in some department stores and chains of shops. The rates set by these negotiations are liable to have some influence on wages in high street shops but not elsewhere. Off the high street there is no collective bargaining, and the conditions for collective organisation are very difficult, with very high labour turnover, large proportions of women and part-timers and scattered, small establishments. Some sectors of retail distribution are outside wages councils and have no collective bargaining. Some wage levels in those sectors are very low. In the event of abolition existing collective bargaining could be expected to continue, but there is no evidence to suggest that it would develop further.

(b) Clothing. Wages Councils in clothing adopt rates set by voluntary agreements between strong employers' organisations and the NUTGW. The purpose is to apply those rates to the large sector of the industry which resists organisation. This is the sector in which sweated employment is traditional. There is strong competition on prices, and employers who can use the pool of cheap labour can undercut the larger employers whose labour is organised. The organised employers are very anxious to retain the Wages Councils in order to protect themselves against unfair competition of this kind.

(c) Hotels and Catering. Collective bargaining is limited to a few hotels, mainly those in chains, and to brewery-owned pubs and clubs. In the great majority of restaurants, hotels and cafes there is no collective bargaining. In some holiday centres there is a strong market for hotel and catering workers and moderate union organisation. Elsewhere the conditions for organising labour are very difficult, with much casual and seasonal employment, high labour turnover and small, scattered establishments. In the event of abolition existing collective bargaining could be expected to continue, but there is nothing to suggest that it would be extended.

(d) Hairdressing. No collective bargaining exists here, apart from some department store salons, and there is no prospect of much further development. The Wages Council minimum sets wages, even in the most expensive salons.

(e) Laundries. There is voluntary bargaining in the larger firms, especially in the rental firms. Elsewhere small laundries, like small shops, are unorganised. Workers in launderettes, dry cleaning shops and laundry receiving shops are not covered by Wages Councils: their pay levels are well below Wages Council rates.

(f) Toy Manufacture. There is no national voluntary bargaining, and the employers' organisation, though strong, is not prepared to engage in voluntary bargaining without independent members the clothing industry, there are many small, low paying, transient firms meeting transient fashions. There is also a substantial homeworking sector.

27. It is clear that in all these industries there are substantial sectors which would not be covered by any collective bargaining if there were no Wages Council. What would happen in that event to pay levels? In unorganised firms the likelihood is that wage levels will undergo a relative fall, which might enable job opportunities to rise at the margin, in some cases at a cost to jobs in the organised sector. The levels of underpayment below Wages Council minima (on average 28% of firms; 34% in cafes and restaurants and more in some shops) suggest an inclination to depress wage levels. This is particularly likely at a time of high inflation. It is reasonable to expect therefore that earnings in these industries, which are already at the bottom of the earnings league, will fall in relation to the average. A relative rise in employment in these industries might also be expected.

28. The abolition of the Wages Councils system would undoubtably meet with severe opposition from some employers. Employers' associations which hold seats on Wages Councils and their individual member firms tend to be very much in favour of Wages Councils, even if they already negotiate with trade unions separately. Organised employers have often strongly resisted the proposed abolition of individual Wages Councils, mainly because it would allow low paying employers who have access to a source of easily exploitable labour such as immigrants to under cut them. Some small firms however, especially those of affiliated to any employers' association, may welcome the abolition of Wages Councils.

29. Another way of putting it is that in the manufacturing industries

covered by Wages Councils at present, enabling employers to pay non-organised workers at market rates well below the prevailing rate would enable them to compete more effectively with firms who engage in collective bargaining, and thus strengthen the market constraints on collective bargaining. This may be seen as helpful from the point of view of the Government's policies on inflation and employment. On the other hand the danger of exploitation is increased.

30. The abolition of Wages Councils without an effective replacement would expose the Government to fire from pressure groups concerned about low pay. The TUC (which, although it prefers effective collective bargaining to Wages Councils, sees a need to protect the low paid) would be likely to oppose wholesale abolition of Councils.

31. Abolition of Wages Councils would leave the UK along amongst the major Western economies without some form of statutory regulation of low pay. It would also appear to give grounds for complaint under the Social Charter of the Council of Europe.

OPTION 2: GENERAL MINIMUM WAGE

Pros and cons

32 The purpose of a general minimum wage would be to establish a minimum entitlement for all workers as a protection against exploitatively low pay. A general minimum would have advantages over Wages Councils. It would cover all workers at risk, including the majority of low paid workers not covered by Wages Councils. It would be clearly aimed at setting a minimum entitlement, not at wage determination through simulated collective bargaining. It should be simple to communicate, and so largely self-enforcing. This would save on the bureaucratic costs and interference of implementing Wages Orders and inspecting firms. It would also mean that workers were more effectively protected against underpayment.

33 Used with care, a general minimum wage policy could have some beneficial economic effects. Raising the price of low paid workers would force some of the least efficient sectors of the economy to raise the productivity of their labour and capital or to close down, so releasing resources for more productive use. Many low paying sectors, however, offer limited scope for productivity gains, and the transfer of resources to more productive sectors might not take place unless the general level of demand were high. Other countries appear to have operated a general minimum wage successfully, without high unemployment costs and with some beneficial effects in productivity. The USA, for instance, appears to have done so with a very low minimum introduced in gentle stages, although the bargaining structure in the USA is rather different to that in Britain.

34 The risks of a general minimum are that it would price low paid workers out of work or that it would have repercussive effects on the wage structure. This latter effect would happen if the minimum rate altered the structure of wages in firms in which there are low paid workers or if it altered relativities between low paid and higher paid workers in different firms to which the higher paid workers were sensitive. There is also the danger that the minimum rate itself would be bid up for egalitarian ends. Some unions are wedded to a minimum wage set at $\frac{2}{3}$rds of average earnings; if a minimum were introduced at a lower level they would no doubt exert pressure to raise it. Another danger is that a general minimum would prove complicated to set and administer. A national minimum rate would be open to the criticism that, unlike Wages Councils, it would be the Government and not the industry concerned which determined the statutory minimum.

Level

35. The effects of a general minimum would depend crucially on its level. It would be set below or at the level of the lowest rates set in collective bargaining. If it were higher than that, it would interfere with rates set in balanced negotiation by organised labour with employers; rates which we have to assume are a fair value for that labour. This means setting the minimum no higher than £42 a week (at mid-1979), the lowest minimum rate set by collective bargaining or by Wages Councils operating like normal negotiating bodies. At the lower end, it could be set above the level yielding - with the addition of state benefits - an income equal to income from supplementary benefits. This would make sense both in terms of asserting a positive incentive to work and of ensuring that income from work yielded enough money to live on.

36. It is almost impossible to establish a low minimum rate which yields a total net income substantially above supplementary benefit for large families with 4 or more children. The reason is that the effects of low wages can be cushioned by means tested benefits. Generally speaking the smaller the wage and the larger the family the more help is available. This means that a family man with 4 children who claims all available benefits can have a broadly similar total net income whether his gross earnings are as low as £37 or as high as £69 or £70. And this total net income will not be a great deal more than he would get on supplementary benefit. For families with three or less children a minimum wage of £38 or more would yield a total income significantly above SB. If the Government wished, then, to set a general minimum wage below the level set by collective bargaining, and significantly above SB (for all but the largest families), it should set it within a range of £38 - £42 a week in terms of mid-1979 levels. We assume that it might be set at £40 a week or £1 an hour. There were roughly 690,000 adults earning less than this in April 1979; 340,000 were part-time workers.

37. Whatever was chosen, it would be below the level of some Wages Council minimum rates. It would therefore have the effect of depressing wages in industries in which Wages Councils with higher minimum rates were abolished and not replaced by voluntary collective bargaining.

Repercussions

38. If all workers paid less than £1 an hour were to have their pay raised to £1, about 0.13% would be added to the total wage bill. The indirect costs of a minimum wage are uncertain as it is difficult to forecast the reaction of higher paid workers to a fall in previous differentials and relativities. The number of workers directly covered by the proposed minimum wage is small. It

is possible therefore that the impact of the minimum wage on differentials will only be acute in a few industries, and it is only in these industries that higher paid workers will attempt to restore previous wage structures.

39. If we assume that it is only in industries where over 30% of the workforce are directly affected by the minimum wage that higher paid workers restore previous proportionate differentials, then up to a further 1.5m workers may have their pay raised as a result of the minimum wage. If we further assume that higher paid workers are successful in restoring previous proportionate relativities and differentials then the indirect costs could add about 0.8% to the wages and salaries bill.

40. A more extreme estimate of the indirect costs can be obtained if it is assumed that the introduction of a minimum wage leads to no long term overall improvement in the relative position of the low paid, but that instead, because of the pressure by higher paid workers to restore previous differentials, the whole wages structure is raised so that previous relativities are restored. Given the relatively low level of the proposed minimum rate and the small number of workers directly affected, such an extensive repercussive effect is unlikely to happen, but this scenario is worth casting as it does give the maximum costs of a minimum wage. With this assumption indirect costs would add 9.5% to the wages bill.

41. In practice it is likely that the indirect costs of a minimum wage will fall somewhere towards the lower estimate. Low paid workers do not generally belong to well developed wage structures; there are no collectively bargained rates for adults lower than £40 per week. Moreover, higher paid workers do not generally make comparisons with the low paid, although this is not to say that they would not ask for multiples of a national minimum wage.

42. The method chosen for fixing and reviewing the minimum could play an important part in minimising repercussions. The aim should be to remove the fixing process as far as possible from the collective bargaining arena, so as to lessen the knock-on effects of implementing the minimum wage. This is achieved in the USA, for example, by reserving the fixing of the minimum to central government and (initially at least) by limiting its application to a small proportion of the workforce. The minimum should be increased at least annually, otherwise the percentage increase would be very large and could encourage high percentage increases for others. The annual change in the minimum would be a problem, unless the minimum wage were indexed, because it would oblige the Government to take a view about the correct level of the minimum and expose the Government to pressure to raise the minimum in relation to wages generally.

43. The employment consequences of raising low pay must also be taken into account. If labour costs are increased in times of recession, job opportunities will inevitably be reduced, particularly for young people and unskilled workers. We have attempted to estimate the employment effects of a minimum wage. A major problem is that few reliable estimates of employment elasticities with respect to real wage increases are available. We estimate, however, that with a minimum rate of £1, direct employment losses are unlikely to exceed 50,000 jobs.*

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* A calculation of this kind involves many assumptions, and the estimated number of jobs lost is sensitive to the assumptions adopted, so that this figure is no more than a guide with a particular set of assumptions. The main assumptions are:-

(1) a marginal employment elasticity of either -0.1 or -0.2. A marginal employment elasticity of -0.1 means that a 10% increase in real wages will reduce employment by 1%; if the elasticity is -0.2, the loss of employment will be 2%.

(ii) that wages of workers affected by the minimum wage rise on average by 12% (an addition of 0.8% to the total wages and salaries bill).

(iii) that 2.1 million workers receive an increase of pay directly or indirectly as a result of the minimum wage.

With an employment elasticity of -0.1 the loss of jobs is 25,000; for an elasticity of -0.2 the loss of jobs is 50,000. Though the empirical evidence on employment elasticities gives conflicting estimates it is unlikely to be higher than -0.2.

Form of a general minimum

44. The aim would be to set a minimum in simple terms so that workers would easily understand and assert their rights. Costly administration would then not be necessary. Starting from the simple idea of minimum gross pay entitlement for an hour's work, what complications would have to be added?
The following problems need to be considered:-

- overtime and premium rates for working at abnormal times. The only simple treatment would be to regard overtime hours as the same as normal hours, with the same minimum entitlement. To specify a premium rate (as does the US legislation - time and $\frac{1}{2}$) would necessitate defining normal hours, and would axd to the complexity and repercussions.

- pieceworkers would receive a minimum of £1 for an hour's work. Homeworkers present a problem because they tend to work more slowly than in-workers and because their work cannot easily be timed. If they had to be paid at the same rate as in-workers, homeworking opportunities might be curtailed, and the problem of establishing what hours they had in fact worked would be insoluble. There are three possible ways dealing with homeworkers, all of which are open to objections:-

(a) exclude them from the minimum wage. This might have the effect of changing the employment structure in low paying industries: employers would be encouraged to transfer more and more of their work to homeworkers.

(b) adopt the wages councils system of a piece work basis time rate, whereby employers have to set a piece rate which would yield at least the minimum time rate to an ordinary worker. This system would be impossible to enforce without wages inspection - indeed even under the present system the Wages Inspectorate finds effective enforcement very difficult.

(c) set a lower minimum time rate (say, half of the normal minimum wage) for homeworkers. This would penalise efficient homeworkers and might encourage employers to use homeworkers rather than employ in-workers. In addition, there remains the problem of timing work to be done at home.

- payments in kind form an important part of remuneration for some low paid workers, eg. in agriculture. They would have to be included in the minimum pay. Their evaluation could however be a subject of dispute, and give rise to the need for local adjudication.

- tips. Some low paid workers - waiters, hairdressers - receive substantial tips, and their basic pay reflects that extra source of earnings. The choice is between ignoring the tips (in which case many employers would no doubt levy a service charge and pass it on to their staff) or, as the Wages Councils do, abating the minimum for service staff, making for a complex minimum.

- holiday entitlements. There are two options: first, to ignore holidays. This would deny low paid workers an entitlement to holidays with pay which is almost universally given to workers. Second, to give an entitlement to a minimum number of hours of paid holiday accrued over a year or a lesser period, paid at the minimum rate. Those who work less than a normal number of hours a week would be entitled to a pro rata proportion of the holiday entitlement. This would be difficult to enforce and to calculate. But the difficulties would be minimised if the entitlement were restricted to employees who work 16 hours or more per week (8 hours after five years). Such employees are already entitled under the Employment Protection Act to a written statement of their main terms of employment (including hours, rate of remuneration and data of commencing work). These documents should provide adequate evidence for calculating an entitlement. Workers who left part way through the year would similarly get a pro rata entitlement (after a minimum period of service). Unless employers were asked to keep special records, disputes could arise over the

over the date employment was terminated.

- young people. The general minimum would be a minimum for adults. The age at which adult rates are paid varies between industries between 18 and 21. The safest course would be to define adulthood as being 21. Juvenile rates could be set at a percentage of the adult rate without adding much to the complexity of the order.

- disabled people. Under the Wages Council system employers can apply for a permit to pay disabled time workers at a reduced rate. This seems unnecessary for a general minimum.

45. To summarise, a simple general minimum could be framed which entitled workers to (say) £1 per hour from the age of 21; with (say) 10% less for each year below 21; payable for all hours worked; whether from piecework or time work; with payments in kind included at a reasonable value; tips excluded; and no statutory holiday entitlement. This would give rather limited entitlement to those paid at the minimum, compared to workers covered by Wages Orders or collective agreements. These are generally entitled to overtime and other premia, limited hours of work and holidays with pay, which a worker on the minimum would not be entitled to. There would still be problems of adjudication over piecework, especially for homeworkers and payments in kind. The problem could be cut down if homeworkers were excluded (though this could have undesirable effects) and if there were a standard 'price list' for payments in kind.

Enforcing the minimum

46. The general minimum would be a legal entitlement. It could be enforced through civil courts (as at present with breaches of Wages Orders) or through tribunals. Industrial Tribunals may be better suited to dealing with a relatively simple entitlement such as a minimum hourly rate than civil courts.

47. A simple minimum ought to be a largely self enforcing, and to give rise to few hearings which could not be settled out of court. If 1% of those paid below £1 an hour continued to be underpaid and were to complain, they would add about 15% to the load on industrial tribunals, at a cost of about £0.7 million and 70 extra staff. There would have to be a corps of conciliation officers to respond to complaints and filter out vexatious or easily settled ones. Assuming a similar proportion of conciliators to cases as with unfair dismissal cases (which is unlikely) there would be 30 extra conciliation officers at a cost of £0.3 million.

VARIANTS ON A GENERAL MINIMUM

OPTION 3: LIMITED MINIMUM WAGE

48. The repercussive effects of a minimum rate would be held down if it were made an entitlement of only limited categories of worker. Only workers at most risk might be covered eg women workers, workers in service industries or workers in Wages Council industries. The last of these possibilities is the most readily defensible limitation. Other workers would remain unprotected, though the existence of a widely known statutory minimum might act to prevent excessively low pay in uncovered industries.

49. The effect would be to prevent any extra costs to employers as would be incurred if a general minimum were set. The administrative costs would also be sharply reduced to roughly half the current cost of Wages Councils. A simple minimum could then be easily extended to non-Wages Council industries in need of protection.

50. Three problems would be apparent. First, the boundaries of the Wages Council industries are obscure and cannot easily be defined. It might, however, be possible to simplify the definition, for instance by defining scope in terms of the primary activity of the firm. Second, the quality of protection for Wages Council workers would be sharply reduced. Workers entitled to minima well above £40 now would be left with no entitlement, and all workers would be left without the more detailed entitlements to holidays, premia etc elaborated in Wages Orders. One temporary expedient might be to leave the existing Wages Orders in force until such time as the single minimum overtook them. The third problem would be to justify the limited scope of the minimum. Whereas the Wages Council machinery is intended to stand in for inadequate bargaining arrangements and can only apply to workers in industries without adequate bargaining, there are no such grounds for limiting the scope of a minimum set without the semblance of bargaining.

OPTION 4: "LOW PAY STANDARD"

51. Another variant could be a "low pay standard" set by Government obtainable through arbitration. There would not be a legal entitlement to a minimum, but workers whose earnings fell below it would be able to apply to an arbitration body. The arbitrators would be empowered to make awards bringing their earnings

towards or up to the standard depending on the market circumstances of the firm concerned and the value of the jobs concerned. The award would then be a legal entitlement.

52. The advantage of this system is that it would be more flexible than a national minimum. Employers would not be compelled to pay the minimum if they convinced the arbitration body that they could not afford to do so. At the same time, it would be simple and well known so that employers who could afford to pay would be under some pressure to do so. Administrative costs would be very small.

53. It would not, however, be an effective protection for low paid workers against an employer determined not to pay. Low paid workers are unlikely to have the enterprise to go to an arbitration body and present arguments about the economic circumstances of their work. Schedule 11 of the EP Act (which this provision would in many respects resemble) was not very effective as an instrument for dealing with pockets of low pay. The arbitration mechanism would be too cumbersome to adjudicate on more than a small portion of the low paid. The case for raising low pay would have to be considered establishment by establishment, and year by year.

OPTION 5: IMPROVE THE WAGES COUNCILS SYSTEM

54. Wages councils could be retained with a variety of policies for reform. At the least present policies for rationalising the councils, for encouraging them to operate as free bargaining institutions and for simplifying Wages Orders would be pursued. In the past 10 years 15 wages councils covering 600,000 workers have been abolished on the grounds that the industries concerned were able to maintain adequate machinery for fixing pay at a reasonable level. There is little scope for abolishing any major councils in the near future unless different criteria for abolition were applied. There have also been some mergers, for instance bringing 9 retail distribution Councils into two Councils in 1979. Proposals for merging some councils in the clothing industry have been put to Ministers. It may also be possible on current policies to exclude some larger employers, eg multiple food retailers, from the scope of wages councils.

55. There is, however, the possibility of further rationalisation of the structure of the remaining councils, principally by merging related councils so reducing the number of bodies. The immediate advantages include:-

a some reduction in total cost of the councils and their secretariat, although this is already relatively small;

b the likelihood of more professional negotiating from the respective organisations in the relatively more influential bodies;

c a reduction in the number of different Wages Orders;

d a reduction in the problems of defining scope at the margins.

This possibility is subject to the reservation that Ministers would have to be prepared to override objections (see para 58 below).

56. Amalgamated councils would have a broader coverage. This could result in less detailed wages orders with consequent inidrect advantages. Above all, the orders would be easier for both employers and workers to understand, so that a greater measure of self-enforcement could be expected. At present many employers underpay because of genuine mistakes. There would be a reduction in the volume of complaints and an easing of pressure on the Inspectorate. This should in principle make possible some reduction in the cost of the Inspectorate, although this cannot be quantified.

Programme of Amalgamations

57. A determined programme of rationalisation could reduce the number of councils to about one-third of their present number. This would be done by amalgamations affecting almost all councils, with major reorganisations amongst the councils covering the clothing industry, hotels and catering. A few minor councils might be abolished or greatly reduced in coverage. There would be a few medium-sized councils (eg the Toy and Laundry councils) for which there are no immediate prospects of abolition or merger. Appendix 5 shows how the programme might work.

58. A rationalisation programme of this scale would almost certainly meet with strong objections from employers' associations represented on wages councils. In the past many employers' associations have objected to mergers on the grounds that a new broader based council would not be so sensitive to their particular interests. Small employers' associations could be expected to put up an even stronger resistance, since some of the smaller employers' organisations at present directly represented on the council could not be accommodated on a merged council unless it were of unwieldy size. Under current legislation the Secretary of State is obliged to refer changes of the kinds proposed to ACAS for investigation if there are any objections, and in the past has referred proposed changes to ACAS anyway.

59 The policy advocated here should simplify the wages councils system, but would not reduce its scope significantly. There may indeed be pressure for extending the system to the few industries which have widespread low pay and little or no collective bargaining, yet no wages council. Two of these areas, launderettes and dry cleaning and contract cleaning, were referred to ACAS for investigation in June 1977 and February 1978 respectively with a view to being brought within the scope of a wages council. ACAS's reports on these two areas are expected to be completed by the spring and summer respectively.

Simplifying Wages Orders

60 Wages Orders are often criticised for being too complicated: their language is archaic; they often set a large number of rates; the scope of the Order is often difficult to interpret. If they could be simplified, employers would find it easier to comply, workers could more easily know and claim their rights and fewer Inspectors would be needed. The Department of Employment has taken the lead in persuading wages councils, who are entirely responsible for drafting the Orders, to review them with a view to simplification. (There is no way of compelling councils to simplify their Orders without primary legislation). Amalgamation would however provide a further opportunity for review. Some councils have already made good progress which should provide models for others. Nevertheless, the Wages Orders must be drafted in legal terms and this makes it difficult for the average person to use them as a working document. The DE has therefore started to prepare and publish explanatory guidance. A leaflet has been published for Hairdressing and a second on Toy Manufacturing will be published very shortly. A programme will be maintained, depending upon resources available. If the number of councils were reduced through amalgamations, the preparation and maintenance of such guidance would be facilitated.

OPTION 6: GIVING WAGES COUNCILS A DUTY TO MAXIMISE EMPLOYMENT

61 It has been seen that the main arguments against the wages council system concern the danger that it reduces employment opportunities for low paid workers. An alternative to abolition would therefore be to try to reduce this danger. This could be done by giving the councils an over-riding duty to ensure that the wages they set are such as to maximise employment in the relevant industries. Thus if there was unsatisfied demand for labour in a Wages Council industry, the council would be expected to increase wages so as to attract people into it. If there was unemployment in it, their duty would be to ensure that wages were not increased at a rate which inhibited the growth of employment.

62 Councils could be required under the existing legislation to consider and report on the effects of wage levels on employment in their industries, but new legislation would be necessary to create a statutory duty for them to seek, in setting minima, to maximise employment.

63. Effects on profitability, and therefore on employment levels, naturally feature strongly among the arguments usually advanced by the employer's side on wages councils. There is no reason to doubt that the councils (and in particular the independent members) take full account of such arguments, so they need of course to weigh them against other factors. It is, of course, very difficult to establish precisely what effect a particular statutory minimum will have on employment in the industry, and still more difficult to predict the effect of variations one way or the other in a proposed new minimum. In practice therefore if the wages councils were given this new statutory duty they could probably do little more than observe trends in employment in their industries and use them as indicators of the direction in which real wages needed to be moved for the purpose of maximising employment. Consideration would have to be given to the additional back-up and research effort they would need in order to carry out such a duty, and also whether the additional administrative expense would be cost effective in terms of its actual effects on the minima set.

Statistical Methods

1. The number of low paid full time adult workers (para 11) is obtained by grossing up the number of workers found in the NES sample whose pay was not affected by absence with earnings of less than 140 pence per hour. This will be an underestimate of the total number of low paid workers as it excludes workers whose pay was affected by absence and those for whom no hourly earnings can be calculated. It would be unwise to assign to these workers the same hourly earnings distribution as that for workers whose pay was not affected by absence. About 3 million adult workers are excluded : what proportion of these earn less than 140 pence per hour is not known.

2. There are two other reasons why the NES may not provide a reliable estimates of the number of full time low paid workers. Firstly, the number of adult workers earning less than 140 pence per hour is relatively small, so that one is looking at the extreme range of the hourly earnings distribution. Because of the small numbers in this range - the NES sample picks up only 406 adult men earning less than 100 pence per hour from a total sample of 70,000 adult men - classification errors due to coding or to inaccurate questionnaire responses could result in a significant distortion of the estimated number of low paid workers. Secondly, it is believed that the NES may underestimate the number of low paid workers because it is thought that some employers of low paid workers do not return the NES questionnaire. There is no way of knowing the size of this underestimate.

3. Our estimates of the numbers of low paid part-time workers are uncertain, and are liable to be underestimates. The numbers are difficult to estimate because the NES excludes workers outside the PAYE system, those most likely to be low paid.

4. In para 15, pay for catering and agricultural workers includes the value of accommodation and meals provided by the employer, but excludes tips and other benefits in kind.

APPENDIX 2

ESTD. NOS. OF FULL-TIME ADULT WORKERS WITH GROSS HOURLY EARNINGS (EXCL. OVERTIME PAY AND HOURS) BELOW THE LOWEST DECILE: APRIL 1979

Hourly earnings under:-	Full-time men	Full-time women
50p	5,000	4,000
60	8,000	10,000
65	10,000	15,000
70	11,000	22,000
75	16,000	32,000
80	21,000	48,000
85	26,000	71,000
90	30,000	106,000
95	38,000	160,000
100	49,000	222,000
110	96,000	483,000
120	188,000	855,000
130	366,000	1256,000
140	637,000	1662,000

SOURCE: NES 1979

WAGES COUNCILS

Coverage

1. There are 34 Wages Councils covering some 2.7 million workers. They cover retail distribution (1.13m workers), hotels and catering (0.88m), clothing manufacture (0.37m), hairdressers (0.12m) and a variety of small manufacturing and service sectors. In addition the Agricultural Wages Boards cover some 0.3m workers.

2. Wages Councils do not cover about two thirds of people on low earnings (eg they do not cover two thirds of people earning the equivalent of £1 an hour in April 1979). Many of the low paid not covered are either in service industries with general low pay (and in some cases weak bargaining machinery) or in low paying occupations (low grade office jobs in the main) in industries with generally high pay.

Purpose and constitution

3. Under the Wages Councils Act 1979 the function of Wages Councils is "the effective regulation of remuneration" in industries where there is inadequate collective bargaining machinery and low pay. Although it is not mentioned in the Act, it was always expected that Wages Councils would provide experience for employers and workers in the process of wage negotiation and lead to voluntary collective bargaining arrangements which would supersede the Councils.

4. Wages Councils, like normal joint negotiating bodies, have equal numbers of employer and worker representatives, appointed by employers' organisations and trade unions. But they also have three independent members who may vote with one side or the other if agreement is not reached. Section 14 of the Wages Councils Act empowers Councils to make orders fixing statutory minimum remuneration, holidays and holiday pay and any other terms and conditions of employment. So far they have only fixed minimum remuneration, holidays and holiday pay.

Statutory minimum pay

5. Wages Councils minimum rates (see Appendix 3B) are always to be found near the bottom of the league table of national minimum rates. Wages Councils industries tend to have higher proportions of low paid workers than do industries with voluntary national agreements. And low pay levels are lower in Wages

Councils industries than in other industries: the lowest decile of earnings among Wages Council employees is considerably lower than that for all employees.

Enforcement

6. Wages Council minimum rates are enforced by the Wages Inspectorate. In January 1980 the Wages Inspectorate had 325 staff, and cost around £2.5 million per annum. In 1978 it was able to visit only 8.2% of the establishments on its lists. 1979 saw the introduction of "indirect" inspection by questionnaire. The Inspectorate now aims to contact establishments every 6 years (about twice its previous rate) by means of either a visit or a questionnaire. Questionnaires are used for the hairdressing and retail trades, where the Wages Orders are relatively straightforward, and are followed up by a visit from an Inspector where the returned questionnaire indicates underpayment of the statutory minima and in a small proportion of other cases.

7. The Inspectorate can prosecute employers who underpay but does not generally do so for a first offence. In 1978 criminal proceedings were taken against 16 employers and civil proceedings against another 1 although over 10,000 were asked to pay arrears.

Statutory Joint Industrial Councils (SJICs)

8. There is statutory provision for wages councils to be converted, after consultation and investigation, into SJICs, whose determinations would have statutory force and would be enforced by the Wages Inspectorage but which lack independent members. So far no SJICs have been created. As far as the matters considered in this report are concerned, there is little or no difference between the two. If wages councils are retained conversion to SJIC should continue to be considered whenever appropriate, as a desirable step towards voluntary collective bargaining; but such a change does not in itself affect the arguments for and against retention.

SJICs

Groups of Wages Councils

1 Retail Distributive Trades

	Estd. no. of workers	Typical weekly minimum rate (£) for adult worker**		Operative date
Retail Food and Allied Trades*	502,000	Shop ass't	48.50*	Dec 1979
Retail Trades (non-food)	630,000	Shop ass't	47.50	Oct 1979
	1,132,000			

2 Clothing Manufacture

Corset	16,000	Machinist	47.25	Jan 1980
Dressmaking & Women's Light Clothing (E & W)	125,000	Machinist	47.30*	Jan 1980
Dressmaking & Women's Light Clothing (Scot)	9,000	Machinist	47.30*	March 1980
Hat, Cap & Millinery	7,500	Hat maker	41.20	April 1979
Ready-made & Wh. Besp. Tailoring	125,000	Machinist	47.25*	Jan 1980
Retail Bespoke Tailoring	6,000	Grade 2	48.90*	Jan 1980
Rubber-proofed Garment	1,000	Machinist	47.25*	Jan 1980
Shirtmaking	25,000	Machinist	47.25*	Dec 1979
Wholesale Mantle	60,000	Machinist	47.25*	Jan 1980
	374,500			

3 Hotel & Catering

	Estd. no. of workers	Typical weekly minimum rate (adult)		Operative date
Licensed Non Residential	350,000	Barman	50.00*	Jan 1980
Licensed Residential etc	400,000	(service wkr / non-service wkr)	41.20 / 50.00	Oct 1979
Unlicensed Place of Refreshment	130.000	(kitchen hand / waiter)	44.00 / 43.04)	June 1979
	880,000			

4 Miscellaneous Textiles

Cotton Waste Reclamation	750	Gen wkr	40.00	April 1979
Flax & Hemp	2,000	Group 1	45.73	July 1979
Lace Finishing	1,000	Gen wkr	40.40	June 1979
Linen & Cotton Handkerchief etc	6,500	Gen wkr	42.00	June 1979
Made-up Textiles	6,000	Unskilled	45.00	Dec 1979
Sack & Bag	2,000	Gen wkr	42.00	July 1979
Rope, Twine & Net	5,000	Grade 4	41.50	July 1979
	23,250			

5 Not grouped

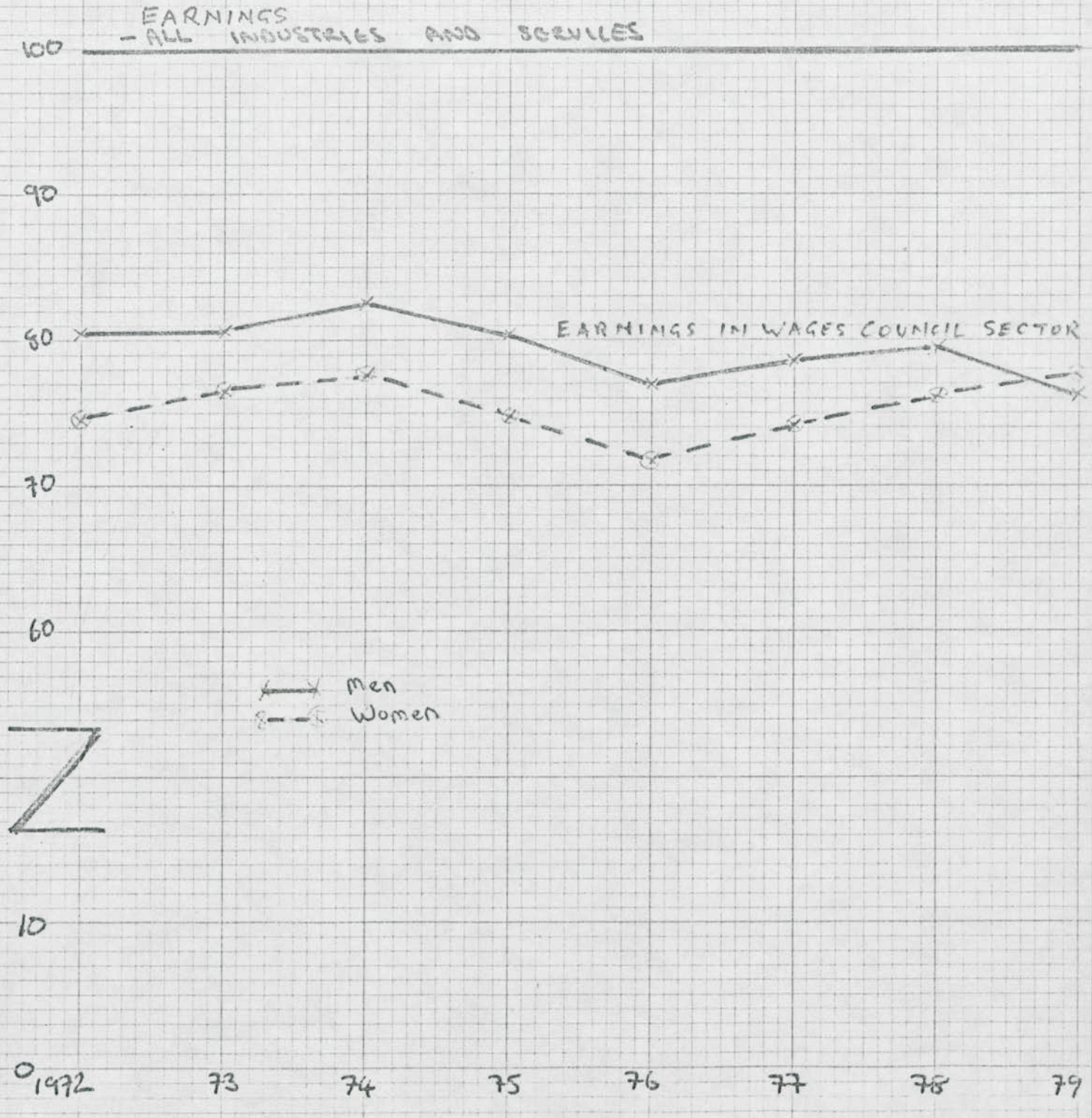
Aerated Waters (E & W)	15,000	Gen wkr	48.00*	Jan 1980
Aerated Waters (Scot)	1,000	Gen wkr	48.00	Sept 1979
Boot & Shoe Repairing	10,000	Bench Wkr	46.00	Feb 1979
Button Manufacturing	2,000	Gen wkr	54.50*	Feb 1980
Coffin Furniture & Cerement Making	500	Gen wkr	52.00	Dec 1979

	Estd. no. of workers	Typical weekly minimum rate (adult)		Operative date
Fur	7,000		27.50	Dec 1976
General Waste Matrls Reclamation	20,000	All workers	43.20	July 1979
Hairdressing Undertakings	125,000	(Qualified hairdresser (shampooist	47.00) 31.00)	Dec 1979
Laundry	55,000	Gen wkr	47.50	Feb 1980
Ostrich & Fancy Feather and Artificial Flowers	750	Gen wkr	45.00	Oct 1979
Perambulators & Invalid Carriage	3,000	Unskilled	46.00	April 1979
Pin, Hook & Eye and Snap Fastener	500	Gen wkr	52.50	Nov 1979
Toy Manufacture	30,000	Gen wkr	40.00	June 1979
	269,750			

*Proposal, subject to confirmation
**Main provincial areas

MEN AND WOMEN

AVERAGE GROSS WEEKLY EARNINGS IN THE WAGES COUNCIL SECTOR (ALL INDUSTRIES AND SERVICES =100)



Overseas Experience

USA

1. A national minimum wage was introduced in 1938 which covered about 43% of the non-supervisory workforce. It has gradually been extended and now covers over 84%. It has also been gradually increased: even allowing for inflation it has increased by almost two and a half times since its introduction. However, the ratio of the minimum wage to average hourly earnings in manufacturing has remained relatively constant at about one half over the years. The UK Dept. of Labour sees this as an indication that the minimum wage, rather than being inflationary, has managed to keep pace relative to other wages rather than lead them or push them up.

2. Employers can apply for exemption certificates enabling them to pay certain workers (e.g. apprentices, the disabled) less than the minimum wage. Enforcement of the wage depends on the underpaid worker complaining to the Dept. of Labour. The Dept. aims to obtain compliance with the law without litigation as far as possible.

3. Since January 1 1979 the minimum wage has been $2.90 an hour (about £1.40), which is about 48.6% of average earnings.

Holland

4. Holland currently has a national minimum wage of 413.10 per week (about £103) for all workers aged 23 - 64. There are separate rates for workers aged 16 - 22. In October 1978 the minimum wage for adults was about 70% of average weekly earnings.

5. The minimum wage is increased twice yearly on the basis of a number of specified collective agreements. As virtually all collective agreements are indexed to prices, the national minimum wage is bound to rise at least as fast as prices. The minimum wage has had adverse effects on employment, and since 1976 the Dutch Government has operated special policies designed to minimise these effects.

France

6. France has had a guaranteed minimum wage scheme since 1952. The present national minimum wage (SMIC) began in 1970.

7. Automatic adjustment takes place whenever the index of retail prices rises by more than 2% above the point at which the SMIC was last raised. The French Government is also required by law to review the SMIC at least once a year. This revision must reflect at least 50% of the average increase in purchasing power over the period in question. However the Government has discretionary power to raise the SMIC by more than this after taking the advice of the Commission Superieure des Conventions Collectives, a body representing employers and trade unions.

8. It is illegal to use the SMIC as a basis for regulating higher salaries, though in practice this does happen to a certain extent.

9. At present the SMIC is about 45% of average earnings. Failure by employers to comply with the SMIC may render them liable to large fines. There are special provisions for young people, agricultural workers and workers who receive food and board. Domestic workers and concierges are excluded from the SMIC.

10. Other OECD countries with a national minimum wage are Belguim, Canada and Italy.

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11. West Germany makes provision of a different sort for the non-unionised low paid. The terms and conditions in voluntary collective agreements are extended by law to workers in the same or closely related industries who are not covered by the agreements.

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APPENDIX 5

PROGRAMME OF WAGES COUNCIL AMALGAMATIONS

Procedure for merging or abolishing a Wages Council

1 The Secretary of State for Employment may at any time by order abolish a Wages Council or vary its field of operation. Before deciding whether to do so he can if he wishes refer the question of abolition or variation to ACAS for inquiry and advice: in the past he has always done so. Under the current legislation the Secretary of State has the alternative of publishing a notice of intention to make an order (eg abolishing a Council or merging it with others) without previous reference to ACAS, but if valid objections are made (as they have been in the past) he must still refer the draft order with the objections to ACAS. The Secretary of State must consider any ACAS recommendation but is not bound to follow it. In any case he may make an order if he thinks fit either in terms of the draft or with modifications.

Large amalgamations

2 Ministers have agreed to consult on proposals to amalgamate the following seven Councils:-

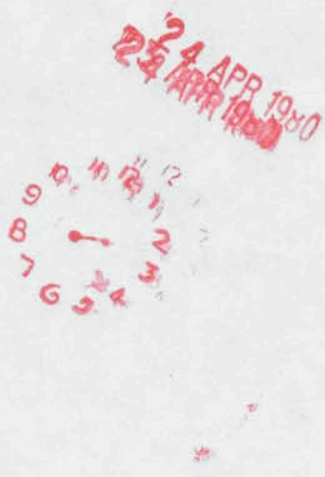
Dressmaking and Women's Light Clothing (E and W)
Dressmaking and Women's Light Clothing (Scotland)
Ready-made and Wholesale Bespoke Tailoring
Wholesale Mantle and Costume
Rubberproofed Garment Making
Corset
Shirt Making

3 Once this has been achieved, consideration could be given to adding some or all of the workers at present covered by some of the remaining allied Councils, eg Retail Bespoke Tailoring and Hat, Cap and Millinery.

4 It might be possible to make further amalgamations eg in the retail trades and in hotels and catering. But it would be difficult to form the merged Councils in such a way that all the numerous separate interests felt that they were properly represented.

Small Amalgamations

5 It might be possible to merge some smaller Councils in sectors such as aerated waters, waste reclamation and miscellaneous textiles.



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V MS

Caxton House Tothill Street London SW1H 9NA

Telephone Direct Line 01-213 6400

Switchboard 01-213 3000

Rt Hon Sir Keith Joseph Bt MP
Secretary of State for Industry
Department of Industry
Ashdown House
123 Victoria Street
LONDON SW1

18 April 1980

Dear Keith

WAGES COUNCILS

Thank you for your letter of 3 April in reply to mine of 26 March about the future of Wages Councils. I have also seen the letters from the Prime Minister's Private Secretary, John Nott, John Biffen and Nicholas Edwards.

It is clear that although we are all agreed about the undesirability of any form of national minimum wage, there are considerable differences of view about reform or general abolition of the Wages Council system. A number of arguable points have been made and is apparent that it would be unprofitable to try to deal with these in further correspondence. I should be glad to discuss in E(EA) on the basis of our exchange of correspondence, with the report by officials as background. This will give us an opportunity to rehearse collectively not only the economic arguments but also the political considerations which I think we all agree are of considerable importance and sensitivity.

I assume that Peter Walker will be invited to take part in the discussion: for my part I cannot see that it would be possible to sustain a case for general abolition of Wages Councils on grounds of economic principle and at the same time depart from the principle in order to treat the Agricultural Wages Boards differently.

I am copying this letter to the Prime Minister, other members of E(EA) Peter Walker and Sir Robert Armstrong.

Yours

cc D/T Ind Pol
HMT
D/Emp
CO
MAFF

10 DOWNING STREET

From the Private Secretary

15 April 1980

Wages Councils

The Prime Minister has seen a copy of Mr. Nott's letter of 11 April to your Secretary of State. She is entirely content that this matter should be discussed in E(EA) rather than in E.

I am copying this letter to Stuart Hampson (Department of Trade), John Wiggins (H.M. Treasury), Richard Dykes (Department of Employment) and David Wright (Cabinet Office).

N. J. SANDERS

I.K.C. Ellison, Esq.,
Department of Industry.

Cc

DEPARTMENT OF TRADE 1 VICTORIA STREET LONDON SW1H 0ET Telephone 01-215 7877

1

PRIME MINISTER
Context for this subject to be discussed in E(EA)? Cabinet Office advice is that E(EA) would be more sensible than E.
MS
14/4

From the Secretary of State

The Rt Hon Sir Keith Joseph Bt MP
Secretary of State for Industry
Department of Industry
Ashdown House
123 Victoria Street
London, SW1E 6RB

11 April 1980

Dear Secretary of State,

WAGES COUNCILS

Jim Prior sent me a copy of his letter on this subject of 26 March to you, and I have seen the report of the review by officials. This issue has far-reaching implications for our economic strategy, and I hope we can discuss Jim's proposals collectively, either in E(EA), if you judged that to be the appropriate forum, or in E if the Prime Minister wished to take it there.

I agree with Jim Prior that we should rule out any form of national minimum wage, and that we have to choose between abolishing the Wages Councils (or at least their statutory powers) and reforming them. In my view the economic arguments are decisively in favour of abolition.

We need to see this question in perspective. We all recognise that the main threat to our economic strategy of squeezing inflation out of the system is that the institutions of our labour market are not well adapted to adjusting pay rises to what employers can afford to pay: and hence that we may see a dangerous rise in unemployment before our strategy succeeds. This means that one of our most urgent tasks is to remove the sources of "stickiness" in the labour market wherever we can, so that pay is more responsive to competitive and monetary developments.

cc D/T Ind Pol
HMT
D/Emp
CO
MAFF

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Wages Councils

The Prime Minister has seen a copy of Mr. Nott's letter of 11 April to your Secretary of State. She is entirely content that this matter should be discussed in E(EA) rather than in E.

I am copying this letter to Stuart Hampson (Department of Trade), John Wiggins (H.M. Treasury), Richard Dykes (Department of Employment) and David Wright (Cabinet Office).

N. J. SANDERS

I.K.C. Ellison, Esq.,
Department of Industry.

Cc

DEPARTMENT OF TRADE 1 VICTORIA STREET LONDON SW1H 0ET Telephone 01-215 7877

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PRIME MINISTER

Context for this subject to be discussed in E(EA)? Cabinet Office advice is that E(EA) would be more sensible than E. MS 14/4

From the Secretary of State

The Rt Hon Sir Keith Joseph Bt MP
Secretary of State for Industry
Department of Industry
Ashdown House
123 Victoria Street
London, SW1E 6RB

11 April 1980

Dear Secretary of State,

WAGES COUNCILS

Jim Prior sent me a copy of his letter on this subject of 26 March to you, and I have seen the report of the review by officials. This issue has far-reaching implications for our economic strategy, and I hope we can discuss Jim's proposals collectively, either in E(EA), if you judged that to be the appropriate forum, or in E if the Prime Minister wished to take it there.

I agree with Jim Prior that we should rule out any form of national minimum wage, and that we have to choose between abolishing the Wages Councils (or at least their statutory powers) and reforming them. In my view the economic arguments are decisively in favour of abolition.

We need to see this question in perspective. We all recognise that the main threat to our economic strategy of squeezing inflation out of the system is that the institutions of our labour market are not well adapted to adjusting pay rises to what employers can afford to pay: and hence that we may see a dangerous rise in unemployment before [illegible] strategy succeeds. This means that one of our most urgent tasks is to remove the sources of "stickiness" in the labour market wherever we can, so that pay is more responsive to competitive and monetary developments.

From the Secretary of State

Wages Councils, with their statutory power to fix minimum wages for 3 million workers, are only one aspect of this task, but an important one, that does lie in Government control. I do not believe their influence is confined to those workers who are paid the statutory minima. Even though I accept that the Wages Councils follow rather than lead collectively bargained pay settlements, they nevertheless tend to raise the floor on which the structure of differentials is built: and they tend, as the officials' review hints (paragraphs 27-28), to underwrite excessive collectively bargained wage rates in inhibiting competition which might otherwise undermine the market power of trade unions.

We cannot ignore that some of the industries which are prevented by these arrangements from adapting their costs to what their markets will bear are those which are under the greatest competitive pressure even now. For example I receive repeated requests for the introduction of trade protection for the clothing industry, whose employees are covered by the wage determinations of Wage Councils. I cannot grant such requests and have to tell those who make them that it is their own responsibility to keep their costs in line with the prices their customers will pay. But when we ourselves are sponsoring statutory arrangements which inhibit them from doing so, our position is not easy to defend.

It is argued that Wages Councils are there to protect workers who lack access to a competitive market for labour. But this looks like a mere post hoc justification: it can hardly be the explanation for the collection of sectors which Wages Councils now cover (for most of which I am the sponsoring Minister, eg distribution, retailing, hotels and catering and high street services). These are far from the industries in which local monopolies of employment exist, or whose workers lack access to a large and competitive labour market (there is no shortage of shops, or clothing firms). The problem in many of these industries is that the number of jobs is declining:

but this is precisely the reason why we must avoid measures which restrict their ability to adjust their costs to what their markets will bear.

Moreover I see that the officials' report finds that Wages Councils are not an effective means of tackling poverty: only a small proportion of the low paid are covered by Wages Councils, and only a small proportion even of these are the main support for poor households, most of the poor belonging to households in which no-one is going out to work. This means we must take even more seriously the danger that statutory wage-fixing reduces the numbers of employment opportunities (especially, as the officials' report says (paragraph 43) for the young and unskilled) and thus tends to exacerbate the problems of unemployment and poverty which we are likely to face in the future.

Clearly we face a dilemma, arising out of the power of the unions to keep real wages and hence unemployment higher than we would wish in unionised industries. This means that in non-unionised industries there is a choice between either letting wages be established at levels that will seem by comparison to be inequitably low, or sponsoring administrative arrangements such as Wages Councils to act as surrogates for trade unions, and thus making ourselves directly responsible for some of the forces keeping unemployment so high.

Whatever the economic arguments, I can see the political difficulty that abolition would entail. It is the statutory powers to set enforceable minima that I think we should be most concerned to abolish, rather than necessarily the Wages Councils themselves, which could have a continuing role as consultative and advisory bodies. But if we conclude that we cannot at this stage remove the statutory powers, then I think we must go for a radical reform of the way they are used, designed to avoid adding to the pressures forcing up unemployment. Option 6 in the officials' report suggests giving Wages Councils an overriding duty to fix wages so as to maximise employment in their

industries and hence to take account of market forces rather than to try to work against them. If we are to keep the statutory powers I am sure we need something on these lines.

I am copying this letter to the Prime Minister, the other members of E and E(EA), and Sir Robert Armstrong.

Yours sincerely,

Nicholas McLaines

JOHN NOTT

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

Caxton House Tothill Street London SW1H 9NA
Telephone Direct Line 01-213 6400
Switchboard 01-213 3000

The Rt Hon Sir Keith Joseph Bt MP
Secretary of State
Department of Industry
Ashdown House
123 Victoria Street
LONDON SW1

26 March 1980

WAGES COUNCILS

Your letter of 31 October 1979 supported John Biffen's earlier suggest that there should be a review by officials of the wages council system. This review has now been completed by officials from a number of interested departments and their report has been circulated. A copy has been sent to Peter Walker who drew attention on 8 November to the interests of himself and other agricultural Ministers in relation to the Agricultural Wages Boards.

Although the report makes no specific recommendations it is clear that there are three main possible courses of action. I shall deal with them in turn.

The first option is to abolish the wages council system without replacement. The argument of principle for this is that the fixing of wages under statute is incompatible with our basic attitude to pay determination. We need, however, to look at things as they are; and at the practical and political implications of such a course.

The Wages Council system has operated for some 70 years under successive governments, and with all its imperfections provides some minimum measure of protection for about 3 million workers in sectors where collective bargaining arrangements are otherwise weak or virtually non-existent. It is a fact that all western countries provide some form of statutory wage protection for workers who lack access to a competitive market for their labour and who are unable to bargain effectively. Wholesale abolition at a time of high inflation would present our opponents with a major opportunity to misrepresent our attitude to the lower-paid and more vulnerable members of the community. There is no evidence of any general support for it; indeed, it would be opposed by virtually all the many employers' associations who are represented on the Councils, as well as by the trade unions.

As against the certainty of wide-ranging opposition, what are the potential gains? There are no grounds for believing that abolition could have more than a marginal effect on employment opportunities, and that only by depressing still further the lowest wages in the economy. It is sometimes said that the awards of wages councils exert an inflationary influence on other pay settlements; but the evidence is that they follow

rather than influence other settlements. They set only minimum rates, few of which exceed £90 weekly, and the rates actually paid tend in practice to reflect the circumstances of individual firms and their labour needs. It is difficult, therefore, to perceive any significant benefits from abolition that would justify accepting the practical and political difficulties of embarking on that course.

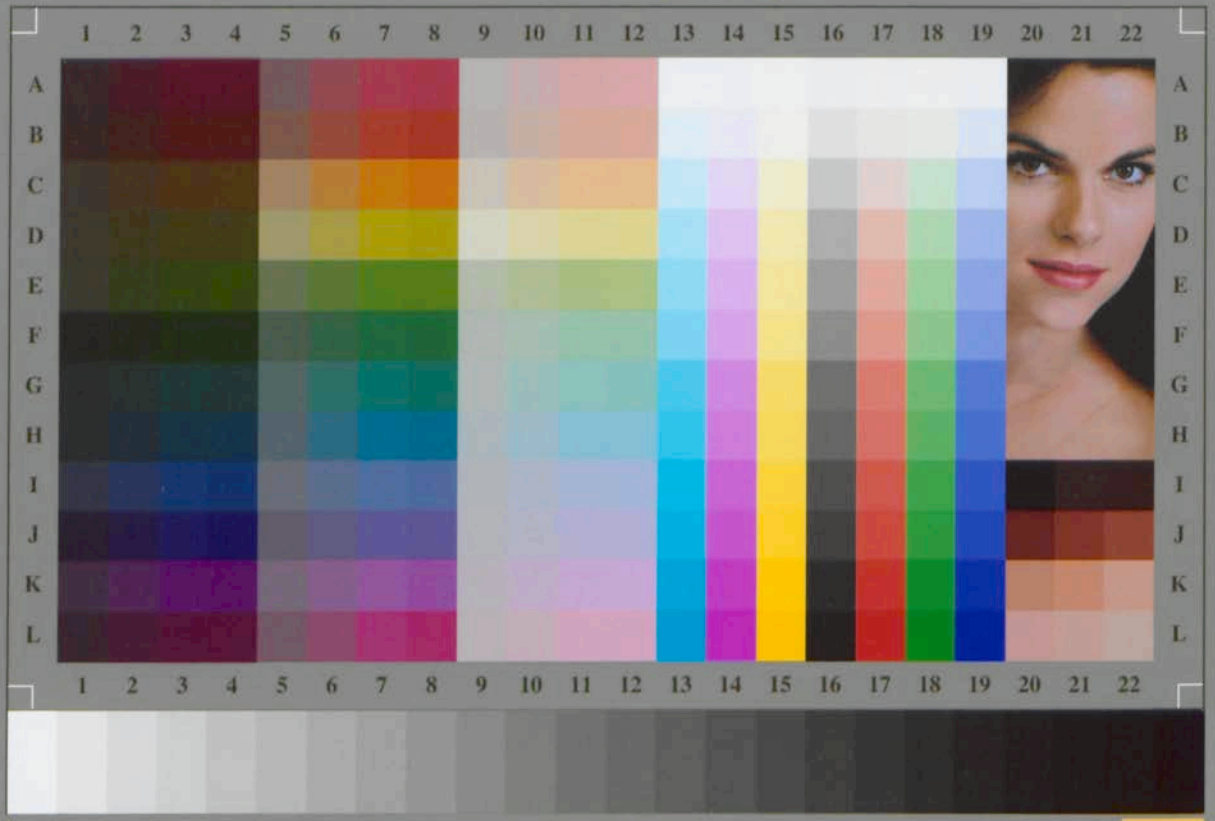
Finally, I cannot see how we could reconcile abolition of the system generally alongside retention of the Agricultural Wages Boards. Peter Walker and the other Ministers concerned will no doubt have views on the attitude of the farming community to those Boards.

The second option is to replace the wages council system eg by some form of national minimum wage. There can be no doubt that the wholesale abolition of wages councils would lead to persistent pressures for some alternative form of protection for the lowest paid. A national minimum wage is operated in some other countries. It would cover all low paid workers; it would more be readily understood, and it would be easier to administer. But it would involve the Government directly in the determination of wages and in the need to justify and defend the minimum level of protection; and operating across the board it could have a significant inflationary effect as other workers sought to maintain their differentials. I conclude that this option should be ruled out in present circumstances.

The third option is to continue with the present system but seek to improve it. We should energetically endeavour to foster the streamlining and simplification of the system; to reduce the scope and number of wages councils wherever conditions are suitable; and to encourage the industries concerned to develop adequate collective bargaining arrangements. In developing this programme I would propose to pay particular attention to the problems of the small businessman who is struggling to cope with inflation and rising costs. Criticism of wages council awards comes mainly from the ranks of the small shopkeeper. I intend to raise this directly with the wages councils and urge them to explore ways of giving special consideration to the situation of the very small businessman and the pocket-money part-time workers.

I am sure that a programme of progressive reform on these lines is the right course in present circumstances.

I am copying this letter to other members of E(EA), to Peter Walker and to Sir Robert Armstrong.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