Copied to Civil Service Pay Bloom R01

Ref. A03235

PRIME MINISTER

Arbitration Arrangements in the Public Sector

(E(80) 113)

BACKGROUND

The Secretary of State for Employment's paper provides a useful summary of the nature and extent of the arbitration arrangements which exist in the public services. The paper is expressly presented as a "progress report" and does not seek to draw conclusions. Nevertheless it is clear that the central issue is whether the Government, or in appropriate cases the management, should seek to withdraw the right, where it exists, for arbitration proceedings to be triggered without their consent - and thus seek to avoid binding arbitration awards which are incompatible with cash limits. Mr. Prior suggests (and colleagues will perhaps readily accept) that, if this subject is to be further pursued, each sponsor Minister should consider the arbitration arrangements for the groups for which he is responsible and submit his conclusions separately to the Committee. There are however broader issues which will figure in the E Committee discussion.

2. The first - and this will be highlighted by the Committee's discussion of the paper on comparability and cash limits which the Chancellor will be bringing to the same meeting of E - is whether cash limits can continue to be used, and if so for how long, as an independent determinant of the level of pay settlements in the public services or whether they should be set, as they were before last year, with an eye on the likely outcome of wage bargaining. If the Committee envisages a prolonged period in which public sector pay will be determined by fiat, the staffs concerned can be expected to fight hard to retain their rights - whether by agreement or statute - to arbitration in an attempt to defend their standards of living. And conversely it will be in the Government's interest to whittle these rights away. On the other hand if your colleagues envisage a fairly early return

to public sector pay settlements broadly related to market forces, then major recourse to arbitration becomes less likely and reforming the system may not be worth the expenditure of much negotiating effort or political capital.

3. The second - and some of your colleagues may well argue for this - is that whatever the merits of arbitration as a principle, the nature of the arbitration processes should be changed so as to weight the outcome more in favour of the management. Sir Keith Joseph's recent minute to you of 2nd October (on which Mr. Prior commented in a letter of 13th October) is an indication of this line of thought. If the point does surface the sensible course might be to have the possibilities further studied either generically or as part of the consideration which individual Ministers will be giving to the arrangements in their own spheres.

4. The third issue which is almost certain to arise is that touched on in paragraph 15 of Mr. Prior's paper, namely the compatibility of a more restricted approach to arbitration - going beyond the letter of existing agreements - with the Government's general view that both sides of industry should be encouraged to honour agreements they have made. Mr. Prior is particularly sensitive on the point both because he has been a prominent public advocate of the Government's view and also because he is currently facing a legal action in which one of the main Civil Service unions will be arguing that the Government is reneging on its arbitration agreement with its own staff. The circumstances of the particular case are unusual and it is by no means certain that the staff will win at law. Nevertheless, the possibility of political embarrassment is real and Mr. Prior can be expected to voice it.

5. The fourth issue is that, while the main concern has been, and will no doubt be in this discussion, the difficulty which can be created, for cash limits and for comparability, by over-generous arbitration awards, we should not lose sight of the value of arbitration as a safety valve which could be useful to Government as well as unions. If this winter produces damaging industrial action (e.g. in sensitive parts of the Civil Service or the NHS), it may be convenient to keep some form of mutually acceptable arbitration available as a possible way out.

HANDLING

6. You will want to ask the Secretary of State for Employment to introduce his paper and then to open the subject to wider discussion. The Lord President of the Council, for the Civil Service, will no doubt wish to contribute as will the Chancellor of the Exchequer, in the context of his wider problems, the Secretaries of State for Education and Science and Scotland, for the teachers, the Secretary of State for the Environment, for local authorities, and possibly also the Secretary of State for Social Services, for the NHS.

7. After the general discussion you will want to concentrate attention on the specific conclusions in paragraphs 19 and 20 of E(80) 113.

CONCLUSIONS

8. Subject to discussion, you will want to record conclusions on:-

(i) Whether sponsor Ministers should consider further the problems which arbitration poses in the areas for which they are responsible and to report to the Committee at an early date.

(ii) The future of the arbitration arrangements for the non-industrial Civil Service. The Committee may well feel that they need fuller information about these before reaching a specific conclusion. If so the Lord President could be asked to bring forward a separate paper quickly, making specific proposals in the light of the Committee's discussion.

RCA

ROBERT ARMSTRONG

15th October, 1980