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PRIME MINISTER

CIVIL SERVICE PAY

When we met on 13 March - yourself, Geoffrey Howe, Douglas Smith standing in for Jim Prior, Barney Hayhoe and myself - we commissioned a group of officials to examine ways out of the present dispute. Here is a copy of their agreed report.

I suggest we should now meet again as soon as convenient next week to discuss how we proceed. I would like to be in a position to talk to the unions by the end of next week, even though we might think it wiser to leave it a while longer. I would like to feel first that they are wanting to talk.

I am sending copies of this minute to Geoffrey Howe and Jim Prior and to Sir Robert Armstrong.

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27 March 1981

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CIVIL SERVICE INDUSTRIAL ACTION: POSSIBLE FORMULA

Introduction

1. At the Prime Minister's meeting on 13 March, it was agreed that no immediate action should be taken to resolve the Civil Service industrial dispute; but that a formula should be worked out for use if this became necessary. A Group of officials under CSD chairmanship, with members from the Cabinet Office, Treasury and Department of Employment, was appointed to make recommendations on this. The Group will go on to report on the remits from the Prime Minister's meeting on the relationship between Civil Service pay and manpower, and the reconciliation of any new pay system with cash limits.

2. We have assumed that we are being asked for advice on a basis on which the Civil Service Unions might be persuaded to end their industrial action without their having first been driven into submission. Whether and when an approach should be made is for separate consideration.

3. The joint industrial action by the Unions is aimed both at securing more money this year and at getting assurances about how Civil Service pay will be settled in future. So the ground which a formula might need to cover is:-

- a. the level of the 1981 settlement;
- b. longer term arrangements for settling Civil Service pay;
- c. the basis of the 1982 settlement on the assumption that the longer term arrangements will not be in place by then.

1981 Settlement

4. In the earlier stages of the pay negotiations the emphasis of most of the Unions was on getting assurances about the future. For some that remains the priority. But there are signs that a number of the largest Unions may see some improvement on the Government's 7% offer as an essential prerequisite for calling off their action now that this has been launched and their members committed to action in support of the Unions' claim.

5. There can be no question of breaching the 6% pay factor in cash limits. The Government has made clear that that is the most that can be afforded this year. It has also said a pay increase of 7% is the most it can find from within the cash

S E C R E T

S E C R E T

limits. We have however looked at this again against the possibility that it emerged that a return to normal work depended on a token increase of say $\frac{1}{2}\%$ above 7%, and Ministers wished to consider whether that could be found. Our best assessment is that an increase of up to $\frac{1}{2}\%$ might be found within the pay related cash limits as a whole by a further squeeze on staff and other administrative costs. But there would be a significantly greater risk than at 7% to a number of individual cash limits and therefore a need for supplementaries balanced by offsetting savings elsewhere. Very tight cash control would be needed in all departments to ensure that the 6% figure was observed overall.

The Longer Term

6. The Civil Service Unions have been told that:

"The Government intend to review the arrangements for determining the pay of non-industrial civil servants with the object of establishing as soon as practicable an ordered and agreed system which takes account of all relevant factors and which will command the widest possible acceptance."

The basis for a new system is being studied by MISC 54 which is aiming to report by the middle of next month. Even if its recommendations could be made available earlier and its proposals agreed by Ministers and put to the Unions, it is highly questionable whether this would contribute to the early resolution of the present dispute. Some at least of the conditions the Government may wish to introduce into the new system will be highly unwelcome to the Unions and some that they want will be very difficult for the Government. The process of reaching agreement is likely to prove long and laborious. The immediate impact of tabling the Government's proposals while the present dispute is still in progress would be more likely to extend the dispute than bring it to an early end.

7. During the run up to the strike the Unions pressed for an elaboration of the Government's "formula" about the longer term quoted in the preceding paragraph. So far CSD Ministers have confined themselves to saying that matters such as pay comparisons and independent fact-finding would be among the factors covered by the review, and that arbitration had not been ruled out for the future. A rather more detailed response, giving certain assurances about the actual content of the new system, was agreed by the Prime Minister on 3 March:-

a. We have already said that an ordered and agreed system would take account of all relevant factors. In introducing such a system, it would be the Government's intention that the terms and conditions of service of its employees should not normally fall behind the terms and conditions of those employed outside.

b. Providing we can arrive at a satisfactory and ordered system, arbitration would have a part to play in normal times.

c. A new system would be established as soon as practicable but whether all or some of it could be used for the 1982 pay settlement would depend on the progress of the review and the circumstances prevailing at the time.

This formulation was not in the event spelt out in detail since it became clear that it would not have averted the action at that stage.

8. It is unlikely that the Unions would see this response as representing any very significant advance on the statement they already have. To go further however would either prejudice Ministers' position in later negotiations on the longer term arrangements or expose the frailty of the formulation. A great deal would depend on the mood of the Unions at the time when the formula was produced. If they were seeking cover for a retreat or were ready to accept what was on offer for 1981 and 1982, they might accept it without much question and leave the real arguments for the later negotiations. If on the other hand they sought to make a major issue of the text of the formula and to probe the Government's intentions and to seek improvements which would tie the Government's hands the Government would be on good ground in resisting a process which involved trying to settle the major long-term issue in the context of the present strike.

9. The assurances which have been given to the Unions about the longer term have been based on the assumption that the Government would first decide on the factors that it wanted to incorporate in a new system for pay determination and would then decide whether to enter into direct negotiations with the Unions or refer the matter to an outside independent review body, as proposed in the Lord President's paper E(81)16. If the course of the dispute makes it difficult for the Government to carry through this process of deliberation and decision as fully as it would wish it may be that an early announcement of an independent inquiry would offer the Unions an adequate measure of assurance about the longer term future. Such an announcement would certainly help to reinforce public opinion against any continuance of the strike. But an independent inquiry would be a major undertaking and would take a considerable length of time. It could not report in time for the 1982 settlement, and the Unions would undoubtedly want assurances about how their pay would be settled in the interim. This is discussed below.

1982 Settlement

10. The Unions have made it clear that an expression of "best endeavours" to have the new longer term system in operation for 1982 will not be sufficient. Their members will want to know how pay is to be settled in 1982 before bringing the present dispute to an end. In asking for this they will be seeking

agreement on the procedures to apply next year as a necessary counterpart to their acceptance of what they see as a low settlement this year.

11. We believe that in practice the negotiations in 1982 will have to take place on an ad hoc basis. It seems very doubtful whether a new pay system, however arrived at, can be in operation in time to provide the basis for next year's settlement. And in any event the economic prospects do not suggest that the climate in early 1982 will be favourable for the launch of new long-term arrangements.

12. If there is no agreed system to provide a framework for the 1982 negotiations the Government will want to be free to argue its case on whatever grounds suit it best and the Unions can hardly be denied a like freedom. In particular they could not be prevented from raising in the negotiations arguments based on outside comparisons. They may seek the reinstatement of pay research procedures pending agreement on a new system. But the Government has made it clear that the pay research system no longer commands confidence and it therefore could not agree to its restoration or the release of last year's pay research evidence whether updated or not. Indeed it will be necessary before long to give notice of final withdrawal from the existing Pay Agreement (at present suspended only for 1981).

13. It must be faced that the Unions will seek to insist that the cash limit arrangements for 1982/83 are devised so as to accommodate a genuine settlement between the two sides and not be used as an instrument for enforcing the Government's will. This would not inhibit the Government from making forceful use of arguments based upon "ability to pay". But a belief that the Government intended to impose a settlement for the third year running would both heighten the risk of industrial trouble next year and strengthen the hands of those in the Unions who argue that a major objective should be to achieve more cash now.

14. The core of the matter is whether, for the 1982 settlement, the Government should be free to impose its own limit, with the Unions having no recourse other than industrial action, or whether the Unions can be given some guarantee of more impartial judgment. We can see no way of maintaining the former position if there is to be any real prospect of an early return to work. We have therefore considered two possible ways of giving them the security they seek. These are discussed below.

15. The first possibility is an undertaking to accept arbitration in 1982. All past experience argues that the Unions would be ready to bind themselves in advance to this, but only on condition that the Government gave a similar commitment. In view of the likely economic position in 1982-83 and the general 'pay climate' which will then prevail this presents very real difficulties. But any insistence that the Government must be free to set aside the outcome of arbitration would make the offer of it worthless in the eyes of the Unions. Indeed, to agree to

go to arbitration but then to refuse to implement the award would be to maximise the risk of further serious industrial action in 1982. So any offer of arbitration, to be of value, would have to involve acceptance of its outcome.

16. It would be natural to expect that any arbitration case would be held before the Civil Service Arbitration Tribunal. A brief note on the Tribunal is annexed. It has a good record especially under its present Chairman and under the Pay Agreements it has consistently avoided "splitting the difference". Indeed in the great majority of recent cases it has found substantially in the Official Side's favour. The outcome would inevitably be less certain with a hearing in which a wide range of factors was before it. But there is no reason to suppose that it would not give full weight to the evidence presented on behalf of the Government.

17. We recognise the difficulties which a promise of independent arbitration for the Civil Service next year would raise. There would have to be a commitment to finance any arbitration award. And there might well be repercussions in the treatment of other public service groups, both this year and next. We have therefore considered whether there are any other approaches to 1982 that might give the Unions the assurance they are seeking that they will not face another imposed settlement.

18. If Ministers could not offer arbitration, the only other assurance which might carry weight with the Unions for 1982 would be a link with income movements generally over the next 12 months. From the Unions' point of view this would rule out any prospect of a 'catching up' increase to make up the ground they might think they had lost in the 1981 settlement. On the other hand they should see it as affording them protection against any further loss of ground. It would, in effect, preserve the status quo, leaving the new system, when in operation, to establish what change, if any, remained to be made in the relative position of the Civil Service in the market generally. We have not had time to consider what might constitute the most appropriate index, but further work is in hand on this point.

Conclusions

19. Our judgment is that, with the Unions in their present mood, a formula aimed at ending the present industrial dispute would need to cover the following ground:-

a. 1981 settlement. An increase in the Government's offer from 7% to $7\frac{1}{2}\%$, but contained overall within the present cash limits, might prove to be important.

b. The longer term. Here there are two options:

i. It might be sufficient for the time being to use the formula agreed by the Prime Minister on 3 March.

S E C R E T

ii. Alternatively the Government might propose to remit to a high-powered independent inquiry the task of recommending what should be the form of the new pay system.

c. 1982. Here again there are two options:

i. The Unions might be given an assurance of access to arbitration if a negotiated settlement could not be reached. Each side would be free to argue its own case in its own way and both sides would undertake to accept the outcome.

ii. Alternatively the Government might undertake, as an interim means of preserving the status quo for 1982 pending the introduction of a new system, to increase Civil Service pay by reference to some suitable index of income movements over the next 12 months.

20. We well recognise that either of the two options for dealing with 1982 would present major difficulties for Ministers. But in the absence of a marked change in the present mood we judge it unlikely that any early end to the action could be achieved unless the Unions can be given some form of assurance on which they feel able to rely that pay in 1982 will not be determined purely by Government fiat.

21. In weighing the options we have set out, both for 1982 and for the longer term, we doubt whether there is much to choose in terms of the likely Union response. We cannot say with total confidence that a formula based on these options and covering both 1982 and the longer term would settle the dispute but we believe the prospects to be good at the right time. But we do not believe that either of the options for the longer term, even if accompanied by an increase to $7\frac{1}{2}\%$ in the offer for 1981, would serve the purpose if there was no commitment for 1982. That is not to say that if the action runs on and perhaps is escalated (although the course of escalation is unpredictable) there will not come a time when the Unions are positively looking for a way out and are ready to set their sights much lower. In that situation, a proposal to remit the longer term arrangements to an independent enquiry might in itself be of value as a means of easing the way for a return to normal working and restoring morale. But we are not in sight of that situation yet.

Civil Service Department
26 March 1982

CIVIL SERVICE ARBITRATION ARRANGEMENTS

The arbitration arrangements for the non-industrial Civil Service have been in substantially their present form since 1925. The Civil Service Arbitration Agreement provides for the reference of disputes on pay and similar matters to the independently chaired Civil Service Arbitration Tribunal (CSAT). References are made by the Secretary of State for Employment at the request of either party (though for grades with pay above that of Principal the agreement of both parties is required and has rarely been given by management).

2. The Arbitration Agreement provides that the claims eligible to be dealt with by the Tribunal are:

"claims affecting the emoluments, weekly hours of work and leave of classes of civil servants ...".

"Emoluments" are:

"pay, and allowances in the nature of pay, bonus, overtime rates, subsistence rates, travelling and lodging allowances".

The Agreement makes no provision about the evidence which is admissible before the Tribunal.

3. The Tribunal consists of an independent Chairman, and one member each from panels appointed by the Secretary of State for Employment on behalf of the Official Side and the Union Side respectively. The present Chairman is Mr David Calcutt, QC. His 3-year term expires in March 1982, but he has indicated his willingness to continue for a further term.