

RESTRICTED

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Copy Duty Clerk No 10 -
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PARLIAMENTARY UNDER-SECRETARY OF STATE
FOR THE ARMED FORCES

D/US of S(AF) 24/17/1/2

The Lord Elton
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Dear Rodney,

CRIMINAL INJURIES COMPENSATION FOR SERVICEMEN'S WIDOWS

I have seen a copy of the correspondence between the Home Office and No 10 last August arising from the Hyde Park and Regent's Park bombings in which your Department explained that the dependants of the victims were entitled to apply for compensation under the Criminal Injuries Compensation Scheme and that the Board had so advised those concerned. What the letter did not - understandably - explain was that under the existing terms of the scheme the Board's assessment may well as I understand it result in little or no compensation for the widows of the Servicemen killed in these incidents.

In that event it is not difficult to imagine how the public will react; but since the absence of compensation will have resulted from the favourable pension arrangements for Service widows, it should be possible to deal reasonably convincingly with the kind of questions and criticism which are likely to arise. We do, however, face a more considerable problem over the fact that if the incidents had occurred in Northern Ireland the widows would have been likely to receive a substantial discretionary award. My ministerial colleagues here and I am concerned about the effect of this difference between the two schemes and the public, press and parliamentary outcry to which it is bound to give rise, with potentially damaging political consequences for the Government. I am sure that you will share our concern about this situation and the impossibility of explaining it in a way likely to convince or satisfy public opinion. I hope that you will therefore be able to agree that appropriate action should be taken to forestall the problem.

The problem arises because in the case of Service widows the benefits payable by the Ministry of Defence and the Department of Health and Social Security equal or exceed

the anticipated income of the Serviceman during his career. This is generally the case for those with average expectations and is therefore likely to apply to those killed in the London bombings. In this situation the GB Board's assessment would result in "nil award" of compensation, while the Northern Ireland scheme makes provision for a discretionary payment of £5,000 to the widow and £500 to each eligible child. (These sums are about to be doubled, with retrospective effect to December 1981). This difference - or anomaly as it will seem to those concerned - was of largely academic concern in the absence of any significant level of terrorist attacks on Servicemen in this country; but the London bombings make it a matter of real and pressing practical significance. This is highlighted by the fact that the bandsmen involved came from a regiment stationed in Northern Ireland: although their widows may be no worse off financially with their Ministry of Defence and Department of Health and Social Security benefits than if their husbands had not been killed, that is cold comfort when they would have been £10,000 better off if the incident had occurred in Northern Ireland. It will be impossible to explain away or justify this distinction to them and it will be seen - and no doubt portrayed by the media - as heartless bureaucracy at its worst.

I am aware that the Administration of Justice Bill currently with Parliament makes provision for a £3,500 bereavement award in the cases to which it applies and the GB Board can presumably be expected to take this into account in its assessment. But since that applies only in relation to incidents occurring after 1 January 1983 it will be of no benefit to the widows of those killed in the July bombings. Moreover, while £3,500 may be regarded as appropriate in the majority of civil cases, it falls far short of the level of discretionary award payable under the Northern Ireland scheme, and this is clearly an important consideration in the case of Servicemen. I understand that the Northern Ireland arrangement was introduced largely in order to ensure that the widows of Servicemen received compensation in circumstances where they would not otherwise have qualified for an award and that they are the main beneficiaries of it.

It seems to us that the factors which made it necessary to institute these arrangements for Northern Ireland now have equal validity here and that arrangements should therefore be made to ensure comparable provision under the GB Scheme in comparable circumstances. I realise that a special arrangement on these lines involves a departure from the basis on which the GB Board has been required to operate hitherto whereby it follows the practice and precedents of the courts in determining what level of compensation would be appropriate. But I should not have thought that this would be an insuperable problem. After all, the Northern Ireland scheme operated on a

similar basis until the special arrangement for discretionary awards was introduced and in all other respects continues to follow the pattern for levels of damages established in the courts. I appreciate that such a provision could probably not in practice be confined to Servicemen and that there are extra cost implications which neither you nor Treasury Ministers would welcome. But perhaps its application could be limited to, say, deaths caused by the actions of terrorist organisations. This would at least ensure that it catered for most, if not all, of the types of case which require the exercise of the discretionary award provision in Northern Ireland.

I hope that you will be able to devise some means of adapting or extending the GB scheme so as to dispose satisfactorily of the problem I have described.

I am copying this letter to Leon Brittan and Gray Gowrie.

Yours ever

Jerry

Jerry Wiggin