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MS

PRIME MINISTER (2)

COLLIERY REVIEW PROCEDURE

I attach the note on the Colliery Review Procedure which Mr. Walker said he had sent to No. 10. In fact he had brought it with him last Friday but had forgotten to hand it over.

Mr. Walker believes the consideration of the Independent Review Body is inadequate, though he thinks the idea of an inspector assisted by assessors is worth building on. He has asked officials in the Department of Energy to prepare a paper which considers how best to establish the Review Body. He will discuss it with you and a limited group of Ministers before putting back suggestions to Mr. MacGregor

AT

ANDREW TURNBULL

11 February 1985

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AT

COLLIERY REVIEW PROCEDURE

I said I would give thought to ways in which the existing Colliery Review Procedure could be amended:

- (i) in order to speed up the various stages; and
- (ii) to take into account the proposed independent Advisory Body.

Timetable for the Review Pcedure

I would propose that the stages in a new Review Procedure, and the time intervals between them, should be as follows:

	<u>Time From Start</u>
(i) the Area Director holds a Colliery Review Meeting with Area Unions.	--
(ii) The Area Director advises the National Coal Board that, in his view, there is no case for the continued operation of the colliery. The National Coal Board consider the Area Director's views, and advise him that, prima facie, he has made out the case for closure.	2 weeks
(iii) Area Director holds reconvened Colliery Review Meeting and announces that he proposes that the colliery should be closed and that the Board have agreed in principle.	3 weeks
(iv) The Unions decide whether they wish the case to be referred to an independent advisory body. It is for the unions to determine whether this is a matter for the Area Union alone to decide, or whether they must refer to their own National Unions before doing so.	4 weeks.
(v) Independent Advisory Body considers the case put forward by the Area Director and by the Unions, and submits written advice to the National Board.	6 weeks.
(vi) National Coal Board hold "Room 16" meeting to consider the advice of the Independent Advisory Body, together, if they wish, with submissions from National Unions.	8 weeks
(vii) National Coal Board advise Unions of their decision.	10 weeks

(viii) Colliery closes; individual notices terminate.

26 weeks

#### Independent Advisory Body

There seem to be three options for the geographical basis on which such a body would operate:

- (i) purely local;
- (ii) national;
- (iii) regional.

After carefully considering the implications of (i) and (ii) I come down in favour of (iii) which would give, say, five regional bodies covering, respectively, Scotland and the North East; Yorkshire; East and South Midlands; West Midlands; and Wales. Bodies constituted on this basis would have enough cases to deal with to build up reasonable expertise and a library of case histories without becoming obsessed with purely local considerations. They would not, however, be seen to be capable of taking a totally national view, which would be reserved for the National Coal Board.

I consider that it would be essential that the constitution of the Advisory Bodies should be such as to avoid the traditional built-in compromise solution. Instead, therefore, of the traditional basis of one "owner's man" and one "union man" with an independent academic - a formula which will always tend to lead to attempts to split the difference - I strongly urge that the body should consist entirely of independent people of stature. There remains the problem of finding enough such people to meet the demand and, after considerable thought, I conclude that the most practical solution may be to appoint on each region a single person - most probably an eminent lawyer - who would be advised by assessors appointed from either side. Such a solution would ensure that clear advice was given to the Board without being fudged, and would minimise delay.

It has to be clear that the function of the Advisory Body (or person) is to advise the National Coal Board, rather than to advise the combined group of the National Coal Board and Trade Unions. This is of special significance, I think, in relation to the Terms of Reference of the Body or person.

#### Terms of Reference

It is my view essential that the Terms of Reference of the Independent Advisory Body should be no wider than the Board's own Terms of Reference. It is no use the Board being given advice which requires them to take into account matters which they are statutorily barred from considering. It is, therefore, essential first to define the parameters which the Board themselves consider it proper to use for taking closure decisions. It might be helpful to take the advice of an eminent lawyer on this at some stage. It would clearly, in particular, be essential to define the circumstances and extent to which social considerations arising from closures were to be taken into account.

As I envisage it, therefore, the role of the Independent Advisory Body is to form an objective judgement on whether the decision to propose closure gives proper weight to all those factors which the Board should take into account in reaching a final decision, and to advise the Board accordingly.



D.G. Brandrick

W/M85/HS/34/MAR