



DEPARTMENT OF HEALTH AND SOCIAL SECURITY

Alexander Fleming House, Elephant & Castle, London SE1 6BY
Telephone 01-407 5522

From the Minister for Health

The Rt Hon Nigel Lawson MP
Chancellor of the Exchequer
Treasury
Parliament Street
London
SW1P 3AG

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Prime Minister (2)
To note the limited progress

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Mr. [unclear]

You and colleagues may like to know the position on my discussions with the NHS Unions about their proposals for a no-strike agreement in return for unilateral access to binding arbitration.

At the meeting at No 10 on 30 April about strikes in essential services I was authorised to meet the Unions for further talks. These were to be exploratory and without commitment to any element of the package. It was to be made clear that unilateral access to binding arbitration would not be acceptable to the Government. The conclusions of the meeting were more fully set out in a letter dated 30 April from the No 10 secretariat to Tom King's Private Secretary.

Talks have been taking place on the basis agreed, ie to discover what the Unions might be prepared to offer and what they would want in return. The Unions have been as anxious as we that the talks should be entirely without commitment and without prejudice. It is evident that they are very doubtful about their ability to carry through a "no strike" agreement of any kind, and are also anxious about prejudicing the TUC's position in relation to any proposals which the Government may produce on essential services generally. For these and other reasons they have also been as anxious as we that very strict confidentiality should be maintained. There must be a good chance that if no agreement materialises the Unions will not wish to give the matter any publicity.

The Unions have accepted as working assumptions that any arbitration arrangements would relate only to disputes arising from general pay claims and would not apply to funding levels, and that access to arbitration would not be unilateral but only by agreement between the parties. These parties would be the two sides of the relevant negotiating body. The Government would not be directly involved, although we have effective control over the Management Sides, whom we appoint. I have made it clear that we could not give up the legal requirement that the Secretary of State should approve settlements, including arbitration awards adopted by the parties. The Unions appear to accept this, but would be looking for some assurance that the Secretary of State would intend to accept awards save in extreme circumstances. Their position is that the stronger their undertaking on industrial action, the stronger the commitment they would be seeking on implementation. This has, so far, simply been registered as a difficult issue which would need further attention in any negotiations.

E.R.

I have also made it clear that the Government would be looking for a solid undertaking to abstain from industrial action so long as agreed procedures were being followed. The Unions recognised this, but from discussions between my officials and the TUC officials it is clear that there is a considerable gap between the best which they currently think they could put to their constituents and what the Government could accept. If the talks were to break down, the best basis would, in my judgement, be that the Unions could not give us an acceptable undertaking. We are still some way from knowing just how far they think they could go in the interests of an agreement.

Other issues which have been discussed include the circumstances in which an agreement would come into play; the place, if any, for conciliation and by whom; the nature of possible arbitration machinery; the nature of arbitration references; and the events which should be regarded as terminating the operation of the agreement in an individual dispute. The discussions have clarified which of these areas are and are not likely to present substantial difficulties, but again, neither side is committed to anything.

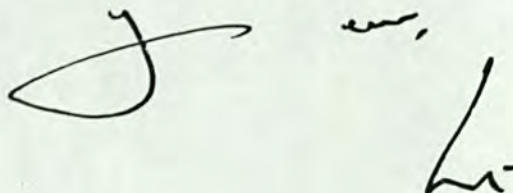
At the last meeting on 17 October it was agreed that a very small group of Departmental and TUC officials should discuss whether any progress could be made in translating the discussions so far held into wording which might form a basis for proper negotiations. The purpose of these discussions is to identify more precisely the likely areas of difficulty. My own position remains fully reserved, as is that of the wider Union group.

Officials expect to have taken matters as far as they prudently can in about three weeks' time. It will then be for consideration on both sides whether it is worth continuing the talks. Meanwhile there is no commitment as regards further discussions at Ministerial level.

As to timing, the TUC have already accepted in discussion with officials that no agreement could be finalised in time for the 1985 pay negotiations.

To sum up, talks are continuing on an exploratory basis, with no commitment of any kind on either side. We are doing nothing to force the pace. The Union Side have also been taking matters cautiously, no doubt because of the increasing embarrassment in which they find themselves over the "no strike" issue. As a result we still do not know what their full proposals might be, but the discussions so far suggest that the prospects for a satisfactory agreement are poor. As to our immediate tactics, these talks were a significant element in the settlement of the 1982 strike, and it is important that the Government should not peremptorily terminate them. It is desirable that the Union Side should be the first to suggest termination, and that termination should be based primarily on the Unions' inability to propose an acceptable no strike undertaking. I therefore do not propose any immediate steps to bring matters to a head. I shall review the position when I have officials' report on their current discussions.

I am copying this letter to the Prime Minister, Secretaries of State for Employment, Energy, Environment, Trade and Industry, Scotland and Wales, and Sir Robert Armstrong.



KENNETH CLARKE

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

18 December 1984

The Rt Hon Norman Fowler MP
Secretary of State for Social Services
Department of Health and Social Security
Alexander Fleming House
Elephant and Castle
LONDON SE1

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Norman Fowler

NO STRIKE AGREEMENT IN THE NHS

I have seen Kenneth Clarke's letter of 28 November and the Prime Minister's response recorded in Andrew Turnbull's letter of 3 December.

I have no objections to the present round of talks being completed, on the understanding that Kenneth remains totally uncommitted to their results and that if those results are unacceptable, the whole exercise can be abandoned painlessly, without giving rise to damaging publicity. We shall in any case need to examine the outcome carefully in relation to the proposals which Tom King is working up on strikes in the essential services and we shall also need to consider the implications for the public services more generally.

Copies of this letter go to the Prime Minister, Peter Walker, George Younger, Nick Edwards, Patrick Jenkin, Norman Tebbit and Tom King and to Sir Robert Armstrong.

Nigel Lawson

NIGEL LAWSON