



C/N.O.

1

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

17 March 1983

Rt Hon The Baroness Young  
The Lord Privy Seal  
Management and Personnel Office  
Old Admiralty Building  
Whitehall  
LONDON SW1A 2AZ

Following last year's report by the Official Committee on the Lessons of the 1981 Dispute in the Non-industrial Civil Service (MISC 65) officials were asked to examine in more detail the obligations of civil service managers in relation to industrial action and the case for noting on personal files instances of industrial action by individual members of staff.

We have discussed, together with Norman Tebbit, reports on both these matters produced by the Standing Group on Industrial Action under Treasury chairmanship. I enclose with this letter copies of both notes which have now been somewhat revised to take account of points which were made in our discussion.

We are, I think, broadly agreed that the right approach to take on clarifying the obligations of managers is to put the main weight on a sustained, low key campaign to influence by means of briefing, discussion and persuasion the general climate of opinion in the service about a manager's duties in the context of industrial action. But we recognise that there might be circumstances which call for a blunter, more general message to civil service managers, although acknowledging that at the present time this course would be likely to be counter-productive.??

The issue of the noting of personal files is not an easy one. Our officials have recommended that there should be no change in the present policy under which industrial action is not formally recorded as a matter of routine on these files. An announcement that this action was to be taken might arguably be a way of getting across the message that as an employer we disapprove of striking in the public services. But it would be likely to stir up a lot of ill-feeling among those staff who have no inclination to take industrial action. There are also a number of legal and practical difficulties surrounding a formal procedure of this kind.

/However,





However, we must ensure that we do not put ourselves unnecessarily at risk by putting into key positions staff who have a propensity to take industrial action. The note by officials suggests that this could be achieved in a less conspicuous and controversial way by means of informal procedures. This course of action would not exclude the noting of the files of individuals when circumstances seemed to warrant it. But it would rely primarily on management judgements rather than on any formalised procedure. As we recognised, this could as a result appear to be a more arbitrary and therefore less justifiable approach. But it would be no more arbitrary than the need for judgements to be made about staff on other qualitative criteria and would be much less likely to lead to direct confrontation with unions and staff on this issue as a matter of principle.

If you and other colleagues are ready to agree with the recommendations in the present notes, officials can be instructed to proceed on this basis.

I am copying this letter to the Prime Minister, the Secretary of State for Defence, the Secretary of State for Social Services, the Secretary of State for Employment, the Attorney General, and Sir Robert Armstrong.

A handwritten signature in black ink, appearing to read 'Geoffrey Howe', with a horizontal line above it and a short vertical line below it.

GEOFFREY HOWE



OBLIGATIONS OF MANAGERS

Report by the Standing Group on Industrial Action (GIA)

1. After Ministers considered last year the report of the official group which examined the lessons of the 1981 dispute, Treasury and MPO were instructed to examine whether action could be taken to clarify the obligations of managers in relation to industrial action.

2. GIA has now examined this point, and this report summarises its recommendations.

Clarifying Obligations of Managers

3. The official group on the lessons of the 1981 dispute stressed the importance of strengthening the morale and loyalty of staff at middle management level. The number of managers who have been involved in industrial action is proportionately very small, so we considered, first, action to clarify obligations which would build on existing loyalties, for example by strengthening the traditional view that a manager had special responsibility to keep the work of government going during industrial action.

4. At present while departments devote considerable effort to selecting and developing managers and advising them on how to handle industrial relations, there is little formal briefing on the personal obligations of managers in relation



to industrial action. In trying to cut down the risks of industrial action departments place great emphasis on developing leadership, encouraging corporate, local and functional loyalties, and briefing all levels of staff. They also make use of the informal pressures within a career system on ambitious staff, and avoid posting to sensitive jobs staff whom they think may choose at some future occasion to go on strike. If, at a later stage, merit pay or some similar scheme were introduced, this would also create informal pressure against industrial action by managers. We believe that the aim should be to reinforce these approaches by pointing out specifically to staff what is expected of them as managers and by underlining that all those who live up to these responsibilities will be firmly supported by management. The object would be to build up a strong management image without making the question of obligations in the event of industrial action into a controversial issue. There are many opportunities for this to be done and judgement will be needed to decide whether it is done in isolation or as part of a wider theme in management briefings, conferences, training courses etc. It would be desirable to consider the provision of written material on these occasions which managers could keep, stating their obligations to the work of their own department. The obligations of managers should certainly be covered in any initial briefing on appointment to a management job, and might also be dealt with appropriately from time to time in job appraisal interviews or career interviews.



5. We recommend that departments should develop plans to ensure that managers are covered in one way or another and that the propositions set out in Annex A are drawn on for this purpose.

6. We have also examined the possibility of circulating a specific written message to all civil service managers which would set out plainly their obligations making it clear that their employer would take note of where their loyalties lay during a period of industrial action, that this would be taken into account in career management, and indicating that there could be disciplinary sanctions in serious cases. A message on these lines could be issued shortly before a particularly serious bout of industrial action: the controversial aspects of the message could not make matters much worse (although they could widen the area of dispute) and its positive content would be brought home to managers at a time when they were actively faced with having to decide their loyalties. It could be expected in these circumstances to have a steadying effect on some and a deterrent effect on others, although this would depend on the issue which was leading to the industrial action in question. A possible draft of a message for this purpose is at Annex B.

7. But there are important drawbacks in taking direct action of this kind in dealing with a problem which involves



only a minority of staff. A service-wide notice of this sort could be easily misrepresented, and might be resented by the great majority of managers who have always remained loyal. However carefully the statement of obligations was drafted, it would be necessary to refer to the sanctions behind the obligations if it were to convince those who resented the basic message. It would break new ground in contemplating the use of disciplinary procedures to deal with industrial action in a Civil Service dispute; and in practice their usefulness in these circumstances is severely limited. The procedures contain necessary safeguards and are time-consuming, and therefore difficult to use effectively if a large number of cases is involved. On the other hand, the use of disciplinary procedures only in the case of particularly irresponsible behaviour by managers would be less difficult than proceeding against all those who took industrial action; and this approach would leave the initiative with the employer.

8. There are also difficulties in defining "managers" for the issue of any general notice. These are of two kinds. First, by definition it should include all those in charge of local offices. Second, many officers in senior grades have less well-defined management responsibilities, and it would not seem right to imply that there is no objection to their going on strike. A generally consistent approach for a service-wide notice would be desirable, and there seems



no alternative to basing any definition on grade levels. But departmental circumstances vary greatly, particularly in the extent to which junior grades are in charge of significant numbers of staff.

9. In practice, the issue of management obligations is already being tackled by departments in a number of ways. DHSS, for example, has already had occasion both to put across the general message on obligations to people working in the parts of the organisation most affected and to take action with staff who have ignored their obligations. They had given some senior managers in the social security regional network an oral briefing at management conferences on the obligations which the department expected all its local office managers to meet. When this briefing was subsequently misrepresented by the SCPS, copies of an exchange of correspondence were circulated to all managers of local offices. A small number of senior staff (SEOs and Principals) who took part in the one day strike on 3 December 1982 in support of the manning dispute in Birmingham have been interviewed and asked to explain their action in the light of their senior responsibilities. This has served to reinforce the message. It may be worth noting that during some 4 months of industrial action at the end of last year involving 12 local offices of DHSS in Birmingham, no managerial staff (with the exception of one or two HEOs) joined the strikers. There is some evidence to suggest that the action which DHSS had taken before the stri-



served to help managerial staff to resolve any conflict of loyalties which they experienced. In getting messages across, the department was however able to choose both the ground and the timing, and this was probably decisive in avoiding a major row on a plainly controversial issue.

#### Outside Experience

10. For completeness, we also examined how other employers in both the public and private sectors have dealt with the question of the obligations of managers at a time of industrial action. They generally do not face the problem that both junior staff and middle management grades up to and including Assistant Secretary are represented by the same union. Public sector employers such as the National Health Service and Local Authorities tend to rely on informal pressure on their junior and middle managers to stay at work; and it is relevant that these organisations are not so exposed as is the Civil Service to the problem of strikes by managers to the extent they tend not to have a large number of local offices under the control of relatively junior staff. Strikes by managers have also been encountered in the private sector, but to a lesser degree. Many private organisations are less highly unionised at management levels, and many negotiate individual contracts with their managers. The banks and insurance companies, which offer the closest parallels, have tended to find that a firm line threatening disciplinary proceedings or suspension has its effect on



career-motivated staff, though such warnings correspond to our own use of temporary relief from duty and are not directed specifically at managers.

#### Conclusion and Recommendation

11. It would be preferable for departments to get across to their managers the obligations which they carry in relation to industrial action, by means of the many informal opportunities which exist for this on training courses, in briefings on new postings, in job appraisal reviews, and career interviews. This should be backed up where appropriate by suitable written material prepared by each department. However, if serious industrial action appeared to be imminent Ministers may wish to consider at the time the circulation of a general notice to managers and senior staff particularly if the more regular pattern of informal briefing had not had sufficient time to establish itself and take effect.

12. The Group therefore recommends:

- a. that departments should make a regular and permanent practice of briefing their managers about their obligations during the many informal opportunities which arise at present, conveying the propositions at Annex A;



b. that if major industrial action is again imminent, Ministers should then consider whether there is a need to issue a general written notice to all managers and senior staff about their obligations, on the lines of the draft at Annex B.



OBLIGATIONS OF MANAGERS - POINTS TO GET ACROSS  
TO DEPARTMENTAL MANAGERS

- a. A managers assumes certain responsibilities which depend on him being at his post when he is most needed (for example, when there is a threat to the normal functioning of the service - including service to the public - because of public transport emergencies, severe weather, accommodation problems, staff sickness, and industrial action within or outside the department).
- b. These responsibilities have become more important because of increased devolution of responsibility to managers.
- c. Among the general responsibilities which a manager acquires are the following. He is responsible directly (eg in a local office) or indirectly (most other jobs) for a service to the public; and he should spare no effort to ensure that the service for which he is responsible is maintained in the event of an industrial dispute. Also, as a manager he is expected if a dispute threatens to explain fully to his staff the employer's position as it has been made known to him, and to discourage from supporting industrial action any who are inclined to do so, pointing out their responsibilities as civil servants.
- d. Managers are selected for their qualities of leadership, resourcefulness and ability to carry out these responsibilities (including the implementation of contingency plans), and departments rely particularly on these qualities at times of emergencies or difficulties.
- e. Managers' performance in such adverse circumstances is regarded as a crucial test of their performance and their suitability for management positions. It follows that any industrial action would be one of the factors that would be taken into account in assessing a person's suitability for appointment to or remaining in a managerial post.



A reporting officer is expected to take this factor into account in assessing a manager's performance in his job; also, particularly good performance during an industrial dispute should be recorded.

g. It has not been thought necessary to issue written instructions about a manager's personal position if he comes under pressure to take part in industrial action. It will be clear from the above, however, that the department expects all its managers to do what the overwhelming majority of managers have always done - to subordinate their personal feeling about the merits of an industrial dispute to their obligations as managers. The department takes a critical view of any manager who participates in industrial action.

---



## INDUSTRIAL ACTION

1. [Introductory sentence to depend on the occasion for issuing the notice and to refer to earlier briefing]
  
2. Industrial action was virtually unknown in the Civil Service until ten years ago. More recently, its character has been changing and has occasionally involved staff in managerial and other senior positions. This notice is intended to remind Civil Service managers of the obligations they carry when industrial action by their staff is threatened or is taking place. Many managers have had to carry heavy burdens in ensuring services to the public are maintained despite industrial action aimed at their disruption.
  
3. All civil servants are expected to carry out their work effectively at all times. Virtually any form of industrial action is a breach of contract, and will involve a disciplinary offence such as unauthorised absence, or of failing to work as instructed. It is for the Department to decide whether and how to pursue disciplinary proceedings, but when the unauthorised absence Industrial action arises in pursuit of a dispute about civil servants' own conditions it is not normally the Department's practice to take disciplinary action.



4. Nevertheless, when the Department gives people the pay and authority of managers, it clearly expects them to give their larger responsibilities for maintaining the work of their organisation priority over any personal views on the issues involved in a dispute leading to industrial action. The Department expects that a manager will spare no effort to maintain the service to the public for which he is responsible. This applies directly for example in the case of a local office, but is no less important because responsibility is indirect, for example, in many headquarters jobs. Also, the manager is expected to explain fully to his staff as it has been made known to him, the employer's position and to discourage from supporting industrial action any who are inclined to do so, pointing out their responsibilities as civil servants.

5. Managers and other senior staff should be aware that, just as the Department values them particularly in appointing them to their responsibilities, the extent to which managers live up to these larger responsibilities is an important feature in the Department's view of their suitability for those responsibilities, and for similar or larger responsibilities in the future. Failure to exercise the full responsibility of a manager could in serious cases be the subject of disciplinary proceedings, even in the case of a dispute about civil servants' own conditions.



NOTING OF FILES

Report by the Standing Group on Industrial Action (GIA)

The Official Committee on the lessons of the 1981 dispute recommended the maintenance of existing policy that industrial action by individual civil servants should not be recorded on their personal files. After considering the Committee's report Ministers instructed officials to re-examine this policy and to consider also if files should show if an individual had performed particularly well during an industrial dispute. Ministers thought it important to be able to take account of an individual's record, particularly when a department was considering promotion or postings involving management responsibility.

2. These questions have now been examined by GIA and this report sets out its conclusions.

3. While information on unauthorised absence of staff could be extracted from their pay records, this would not normally be available on their personal files used for personnel management purposes. The introduction of formalised procedure for the noting of personal files to record as a matter of routine all cases of industrial action would need to be announced to staff. To do this could deter some civil servants from going on strike. But it would not deter all of them and the announcement that this procedure was being introduced would be likely to attract a good deal of criticism, even from more



moderate staff. Such a highly controversial measure would allow unions both inside and outside the Service to highlight the issue as one of principle. We doubt whether this course of action would in itself be worthwhile simply from the point of view of deterring industrial action.

4. Staff have been told that industrial action about Civil Service conditions is not treated as an individual disciplinary offence. If there was any question of making industrial action by staff in itself a bar to their subsequent promotion this would change that position. Noting would then have to be subject to existing disciplinary procedures since the procedural safeguards which these provide could not be set aside without the risk of legal challenge to the use of this new sanction. In practice, if a clean record on industrial action was to be a criterion for promotion, departments would have to be able to apply this flexibly: it could create serious difficulties for some departments if it had to be applied rigidly (for example, to all staff who had taken part in a widely supported one-day strike). Moreover some staff undoubtedly moderate their views and adjust their actions as they move into more senior jobs and allowance would have to be made for this.

5. It would be less contentious and more selective for industrial action by an individual to be regarded as simply one factor to be taken into account alongside others in



considering him for promotion. Even then a formal noting procedure applied in the case of all staff would lead to pressure to bring the arrangements within the scope of existing disciplinary procedures. There would, in any case, be considerable practical problems for management in ensuring that the files of all members of staff were noted, particularly in the case of widespread, if short-lived, action. Even routine noting could be arbitrary in its effect because when selective industrial action takes place those involved are unlikely to be the only ones prepared to take action if called out by their unions.

6. For these reasons we do not recommend that formal routine procedures for the noting of personal files to record all cases of industrial action should be instituted.

7. At the same time it would not be satisfactory if an individual's continuing prominent support for industrial action was simply ignored in taking decisions on staff postings and promotions. An alternative, and more informal, approach (which would avoid many of the difficulties which have just been described) would concentrate on ensuring that the work of a department and the provision of its services to the public are not unnecessarily obstructed or put at risk by placing in a management or other sensitive job an individual who is known to be an active supporter of industrial action.



8. For this purpose, the knowledge that an individual had been active in supporting industrial action in the past would be regarded as one factor to be taken into account in deciding on promotion and postings. But departments would retain flexibility in deciding whether a particular individual's known attitude was acceptable or not and could take account of any changes which had taken place in the individual's attitude since the industrial action in which he had participated took place. Clearly the attitude of an individual to industrial action would be more significant if he was under consideration for senior levels of responsibility. But they would also be relevant in the case of postings to work in sensitive areas. Although the general deterrent effect of an informal approach of this kind might be somewhat less immediate, it would become clear that, while an individual is not debarred from striking if he chooses to do so, nevertheless a propensity to take industrial action would narrow down the number of postings which the department would be prepared to consider for him and as a result affect his chances of promotion.

9. In some departments informal methods already ensure that staff who are strike prone are not posted to sensitive jobs, including those with significant management responsibilities. It would, however, be necessary to make sure that all departments are aware of the need for vigilance in this. In most departments senior management knows as



a matter of course who has been prominent in industrial action and who has not. Existing informal knowledge among personnel managers therefore provides a good basis on which to build. This could be supplemented as necessary by discreet inquiries of regional or line managers and where appropriate direct questions to promotion candidates about the obligations of managers.

10. It could be argued that this proposal would be more arbitrary and therefore unjustifiable compared to a universal procedure for recording industrial action. But it would be no more than an extension of the need which already exists to make broadly-based subjective judgements on a number of factors in career management decisions. If the approach is applied in a sensitive way it would be much less likely to lead to direct confrontation with unions and staff on this issue, and should be as effective in dealing selectively with those who posed the greatest threat of disruption.

11. The noting of good performance is clearly less controversial. This is already done in outstanding cases in the form of special ad hoc reports whether in the context of handling a strike or some other aspect of a department's work (since these reports are by definition exceptional they would not serve the purpose of identifying by exclusion those who have been active supporters of militancy). Annual reports already deal to some extent with an individual's loyalty to management or to union during a strike,



particularly where an individual is directly responsible for maintaining a service to the public and the report comments on the way in which this has been discharged. But there is bound to be some variation in practice on this.

12. We recommend therefore that MPO should draw the attention of all departments to the need for caution over postings to management and other sensitive jobs at any level. This guidance could also cover the need to ensure that existing arrangements for recording performance (whether favourable or unfavourable) in reports on staff covering periods of industrial action are operated in a consistent way.

13. What we are proposing would be a more coherent and rigorous approach but based on existing practice and we do not think that there would be a need to draw special attention to it more widely. Indeed, from an industrial relations viewpoint it would be preferable to handle this matter in a low key although firmly. It would, however, be important for departments not to attempt to conceal the kind of action which they were taking if they are asked about it directly by staff or by their trade union side. In the case of any "return to work" agreements which may need to be negotiated with the unions following industrial action, it would be important to make sure that they are not misled about the position and that agreements do not exclude



ad hoc action of the kind which has been described. For example, in the case of the recent industrial action in DHSS the individuals concerned and their unions are aware of the fact that a written record is to be kept on the personal file of the individual concerned of interviews with managers who took industrial action.

14. The Group therefore recommends:

(a) that there should be no change in the present policy that industrial action is not formally recorded on personal files as a matter of routine;

(b) that MPO should ensure that departments are aware of the need for caution over postings to management and other sensitive jobs at lower levels and follow the specific suggestions in paragraph 9 when necessary. The guidance would be designed to ensure that existing arrangements for recording performance (whether favourable or unfavourable) in reports on staff covering periods of industrial action are operated in a consistent way.



22 MAR 1983

11 12 1  
2  
3  
4  
5  
6  
7