



MANAGEMENT IN CONFIDENCE

Management and Personnel Office

Whitehall London SW1A 2AZ

Telephone 01-273 } 4400
GTN 273 }

30 March 1983

The Rt Hon William Whitelaw CH MC MP
Secretary of State for the Home
Department
50 Queen Anne's Gate
London SW1H 9AT

Proc Muster

John Wilkie

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CIVIL SERVICE APPEAL BOARD

In my letter of 19 February 1982 about the future of the Civil Service Appeal Board, I set out the options then confronting us:-

- (i) abolition of the Board;
- (ii) designation as an alternative to Industrial Tribunals;
- (iii) improvement of the Board's practices.

Designation requires a joint approach to the Secretary of State for employment under Section 65 of the Employment Protection Act. The present strong opposition of the Trade Union Side to this option would therefore be a significant obstacle. Designation would, moreover, remove from management the final right of selection of Chairman and Members. And it would legally require a fundamental overhaul in the Board's present constitution. Taking these factors together, the Department of Employment no longer recommend designation as viable.

The MPO has therefore consulted Departments again at Permanent Secretary level on the two remaining options. More departments favoured refurbishment than abolition, though some, including your own, MOD and DHSS, who are major users of CSAB, supported abolition. However, most departments were prepared to retain CSAB if it were thought to be in the public interest. It is also worth noting that, with only two exceptions, the departmental teams which took part in the recent Review of Personnel Work expressed clear support for retaining the Board.

I recognise the arguments for abolition, particularly the presentational difficulty of retaining a separate appeal body for the Civil Service; and the anomalous dual right of appeal to which this gives rise.

After the most careful consideration, however, I have concluded that there are strong arguments against abolition. First, in practice only a tiny handful of cases go forward to Industrial

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tribunals after being heard at CSAB. Secondly, to use Industrial Tribunals in place of the CSAB would be much more costly. The estimated additional cost of one hearing before an Industrial Tribunal would be at least £500, and quite possibly twice that sum. This cost does not include the cost of the time of Civil Service staff involved. Thirdly, the Civil Service is a huge organisation, and the Board is well-versed in its procedures, conditions and practice. There is no evidence that the ruling of Industrial Tribunals would be more - or as - consistent. Finally, some categories of staff, including Prison Officers and MOD police, cannot under legislation have recourse to Industrial Tribunals. In these particular cases your department and MOD would need to establish new alternative appeal systems.

Nevertheless, I do not consider that the CSAB should remain unchanged. There have been criticisms in recent years of its approach and the pattern of its rulings which cannot be ignored. However, it is interesting to note that the percentage of successful appeals to the CSAB has dropped from 27% (1981) to 10% (1982) which suggests that an improvement is under way.

I have concluded that the CSAB should be refurbished (in the ways set out below) and retained for 3 years. If by the end of that time, criticisms of the Board are just as potent as at present, I shall abolish it.

I propose:

- (i) the appointment of an independent Chairman, who has no previous connection with the Civil Service;
- (ii) the appointment of a Deputy Chairman who has the confidence of both Official and Trade Union Sides;
- (iii) discussion with the Board of its powers to award compensation as an alternative to a recommendation of reinstatement, where the department is held to be partly at fault, to bring its practice more into line with Industrial Tribunals. (No encouragement would be given to the Board to use recourse to compensation simply in order to 'split the difference'.)

We plan also to see whether there is any way of removing the dual right of appeal by legal means. In the meantime the Trade Union Side have assured my officials that they would regard a continuing CSAB as the normal avenue of appeal. Only exceptionally would they support a further appeal to an Industrial Tribunal.

I hope colleagues will be content with what I propose. I am copying this letter to members of the Cabinet and to Sir Robert Armstrong.

Yours sincerely

Baroness Young

Civil Service - Long term

Policy Pt 12



*With the Compliments
of the
Lord Privy Seal*



DEPARTMENT OF HEALTH & SOCIAL SECURITY

Alexander Fleming House, Elephant & Castle, London SE1 6BY

Telephone 01-407 5522

From the Secretary of State for Social Services

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

6 May 1983

CIVIL SERVICE APPEAL BOARD

Thank you for copying to me your letter of 30 March to Willie Whitelaw about abolition of this Board. My Department, my predecessor and I have argued consistently for abolition, as your letter recognises. We have not done so lightly. Apart from the arguments about the unsatisfactory nature of the proceedings and decisions of the Board in our past experience, we have been influenced by the strength of the case against continuing an anomalous dual right of appeal. In the past we inclined to think that the presence of a Civil Service Appeal Board encouraged the unions to bring cases almost automatically to it regardless of the real merits of those cases. Insofar as this may be so, it means that the Board creates appreciable time-wasting expense in providing briefing for and representation at its hearings. I notice that Defence and the Home Office line up with us, despite their having the difficulties mentioned in your letter. In terms of staff managed we must constitute more than half of the service as a whole.

It has also led to a procedure whereby staff are not effectively dismissed until after the findings of the Board have been confirmed. Thus we have in many cases inefficient or suspended officers retained for months longer than need be and long after management have by the most careful processes and examination of cases concluded that dismissal is the only reasonable course. In most cases these people continue on pay while suspended.

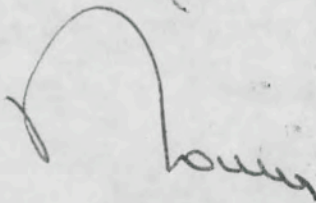
The Board is now an anachronism since its function has been taken over long ago by the statutory right of appeal to industrial tribunals. I continue to think it should be abolished and departmental managements can then reconsider their existing arrangements for processing appeals (for example to the Head of the Department) if they see need to do so.

E.R.

That the unions are prepared to regard the Bord as the normal avenue of appeal serves, if anything, to reinforce my doubts.

I am not therefore happy about your conclusions, but if these should prevail I would hope, with Peter Walker, that both Chairman and Deputy Chairman would be independent. Also I think it would be important to have reasons clearly set out for decisions and a body of precedent built up so that on both the union and official sides there would be a clear indication to guide future would-be applicants as to the success or otherwise likely to attend an appeal. No doubt before any proposals for improvement are put to the unions your officials will let mine have a chance to see what you have in mind, since there are also possible improvements in the way evidence is tabled before a CSAB hearing and in the conduct of the oral hearing itself.

I am copying this letter to recipients of yours.

Yours


NORMAN FOWLER

Civil Service
Cong Term #112



The Commission has reviewed the report of the board of
examiners and has found it to be satisfactory. The board
has recommended that the applicant be appointed to the
position of [unclear] and that the salary be fixed at
[unclear]. The Commission has no objection to the
appointment of the applicant to the position of [unclear]
and the salary of [unclear]. The Commission has also
recommended that the applicant be given a trial period
of [unclear] months. The Commission has no objection
to the trial period of [unclear] months. The Commission
has also recommended that the applicant be given a
trial period of [unclear] months. The Commission has
no objection to the trial period of [unclear] months.

WORKING



QUEEN ANNE'S GATE LONDON SW1H 9AT

28 April 1983

Dear Janet

JK 3/5

CIVIL SERVICE APPEAL BOARD

Thank you for your letter of 30 March about the future of the Civil Service Appeal Board. We have had this matter under consideration for rather over two years. It is right that we should now reach a decision.

In my letter of 31 March 1981 to Christopher Soames I suggested that the Board should be abolished and that civil servants, like employees at large, should be left with recourse to Industrial Tribunals only. A subsequent ruling by the Employment Appeal Tribunal to the effect that prison officers do not have access to Industrial Tribunals has the consequence that abolition of the CSAB would oblige us to make special arrangements for appeals by prison officers, but we could live with this.

In your letter of 19 February 1982 you reported that, while there was a good deal of dissatisfaction with some of the CSAB's recent decisions, most of our colleagues did not favour immediate abolition. You proposed that we should aim to designate the CSAB as an alternative to the Industrial Tribunals. In my letter of 28 February 1982 I agreed to this.

We subsequently learned that your Department and the Department of Employment saw considerable problems about designation. Your present letter confirms this and concludes that the Board should be refurbished in the ways suggested at the end of your letter and retained for three years.

Nothing that has been said during the past two years has really weakened the argument that the Civil Service, which rightly takes a great deal of trouble to weigh all the relevant considerations before deciding to dismiss an officer, does not need the CSAB as well as the Industrial Tribunals. Nevertheless, if colleagues generally agree to your proposal to keep the CSAB in being for a further three years on the basis suggested in your letter I am prepared to go along with this. I wonder, however, whether your proposals for "refurbishing" will make all that much difference. We would like to see, in addition, probation cases excluded from the Board's ambit; and a greater readiness on the part of the Board to consider cases on their merits rather than by reference to the procedures followed; to give reasons for their decisions; and to establish precedents for themselves (and thus for Departments) in important cases.

I am copying this letter to the Prime Minister, to other members of the Cabinet and to Sir Robert Armstrong.

John
Baker

The Rt. Hon. Baroness Young

CIVIL SERVICE: L-T Management

Pt 12



13 MAY 1985



Management and Personnel Office

Whitehall London SW1A 2AZ

Telephone 01-273 } 4400
GTN 273 }

The Rt Hon Norman Tebbit MP
Secretary of State for Employment
Department of Employment
Caxton House
Tothill Street
LONDON SW1H 9XF

10 May 1983

Dear Norman,

will request, if required. 11/5

Thank you for your letter of 19 April about my proposals for the future of the Civil Service Appeal Board.

I thought you would like to know that my officials have been looking at the Board's procedures, and the specific point you raise about disciplinary dismissal does form one of a number of amendments to the Civil Service Pay and Conditions of Service Code which have been held in abeyance pending a final decision on the future of the Board. Action is now in hand to get the changes agreed and promulgated.

I should, of course, be glad to consider any other suggested changes in existing procedures which colleagues may wish to make. I am copying this letter to other members of the Cabinet.

Yours

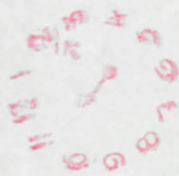
Baroness

BARONESS YOUNG

CIVIL SERVICE: L-T Management

Pt 12.

MAY 1983



NBPM

MANAGEMENT IN CONFIDENCE



Treasury Chambers, Parliament Street, SW1P 3AG

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

25 April 1983

Dear Janet,

CIVIL SERVICE APPEAL BOARD

You wrote to Willie Whitelaw on 30 March about the future of the Civil Service Appeal Board. Geoffrey Howe has asked me to let you have Treasury comments.

I agree generally with your conclusion and with the way in which you propose to refurbish the Board. Although there is some force in Peter Walker's suggestion that there could be some advantage if the Deputy Chairman, as well as the Chairman, had had no Civil Service experience, I take your point that it would be helpful to appoint a Deputy Chairman who has the confidence of both Official and Trade Union Sides (as is the case at present). I suggest that we have another look at the question of the Deputy Chairman when the review of the new arrangements, described in your letter, is carried out in three years time.

I am copying this to members of the Cabinet and Sir Robert Armstrong.

Barney Hayhoe

BARNEY HAYHOE

MANAGEMENT IN CONFIDENCE



2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

My ref: K/PSO/12013/83

Your ref:

25 April 1983

CIVIL SERVICE APPEAL BOARD

Thank you for copying to me your letter of 30 March proposing various measures to refurbish the Civil Service Appeal Board.

I am disappointed that it has not so far been possible to make progress with designating the Board as an alternative to Industrial Tribunals: I am glad to see that you have not entirely given up hope on this score and intend to pursue it further. Having said that, I do agree that your proposals for the appointment of the Chairman and Deputy Chairman would help to increase confidence in the Board. I also welcome your intention to discuss the Board's powers to award compensation as an alternative to re-instatement; this will certainly be useful in some cases. However, the practical value of this proposal does seem to be somewhat undermined if the appellant can still press his claim for reinstatement at an Industrial Tribunal.

/ I am copying this letter to the other recipients of yours.

TOM KING

Civil Service
Long Term, Pt 12



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MANAGEMENT—IN CONFIDENCE

Civil Service



NORTHERN IRELAND OFFICE
GREAT GEORGE STREET,
LONDON SW1P 3AJ

SECRETARY OF STATE
FOR
NORTHERN IRELAND

The Rt Hon Baroness Young
Management and Personnel Office
Whitehall
LONDON
SW1A 2AZ

14 April 1983

Dear Janet

TA
14/4

CIVIL SERVICE APPEAL BOARD

Thank you for copying your letter of 30 March to the Rt Hon William Whitelaw.

The Home Civil Service part of the Northern Ireland Office is the only area for which I have responsibility where there are staff with an avenue of appeal to the CSAB. Although we have so far had no experience either of the Board or of Industrial Tribunals, I am content with what you propose. But I should mention that the Northern Ireland Civil Service, including those members seconded to the NIO, has its own Appeal Board modelled on the CSAB. The NICS Appeal Board is smaller, and deals with fewer cases than the CSAB, and has no Deputy Chairman and it is doubtful whether the particular reforms you propose could be implemented in the Province. Nevertheless we will be looking at the Board and its procedures to see whether any changes might be possible.

I am copying this letter to members of the Cabinet and Sir Robert Armstrong.

Yours faithfully
[Signature]

MANAGEMENT—IN CONFIDENCE

Civil Service: Long Term Management A 12

MAILED

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MINISTRY OF AGRICULTURE, FISHERIES AND FOOD
WHITEHALL PLACE, LONDON SW1A 2HH

From the Minister

MANAGEMENT: IN CONFIDENCE

The Baroness Young
Lord Privy Seal
Management and Personnel Office
Whitehall
London
SW1A 2AZ

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2/4

11 April 1983

Al. Gunt

CIVIL SERVICE APPEAL BOARD

I thank you for your letter of 30 March. *attached*

I agree generally with your conclusions and proposals for the CSAB. But for the Deputy Chairman I would prefer to see someone who, like the Chairman, would have no previous connection with the Civil Service. After all, hearings may be chaired by either the Chairman or his Deputy and both should be independent.

I am copying this letter to other members of the Cabinet and to Sir Robert Armstrong.

Peter Walker

PETER WALKER

Civil Service

Long term

Policy # 72

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