



~~SECRET~~

CONFIDENTIAL
PRIVY COUNCIL OFFICE

WHITEHALL, LONDON SW1A 2AT

4 December 1984

*Tomb
R 4/12*

19

Dear Steve,

THE NEWCASTLE SHIFT DISPUTE

I attach minutes of this morning's meeting under the chairmanship of the Lord President.

I am sending copies of this letter and the minutes to the Private Secretaries to the Ministers who attended the meeting, to Andrew Turnbull in the Prime Minister's Office and to Richard Hatfield in Sir Robert Armstrong's office.

*Yours sincerely,
Janet Lewis-Jones*

JANET A LEWIS-JONES
Private Secretary

S Godber Esq
Private Secretary to the
Secretary of State for
Social Services

CONFIDENTIAL

~~SECRET~~

SECRET

MINUTES of a Meeting of Ministers
held in the Privy Council Office on
Tuesday 4 December 1984 at 9.15 am

PRESENT

The Rt Hon Viscount Whitelaw
Lord President of the Council
(In the Chair)

The Rt Hon Norman Fowler MP
Secretary of State for Social Services

The Rt Hon Tom King MP
Secretary of State for Employment

Sir Patrick Mayhew QC MP
Solicitor General

Mr Barney Hayhoe
Minister of State, Treasury

Mr Antony Newton MP
Minister of State, Department of
Health and Social Security
(Minister for Social Security)

ALSO PRESENT

Mr D Willett
Prime Minister's Office

SECRETARIAT

Mr P L Gregson
Mr J F Stoker

SUBJECT

THE NEWCASTLE SHIFT DISPUTE

SECRET

SECRET

NEWCASTLE SHIFT DISPUTE

The Meeting discussed the strike of Department of Health and Social Security (DHSS) employees over proposals to alter shift working arrangements for computer operations at the Department's Newcastle central office.

THE SOLICITOR GENERAL said that the further advice for which he had been asked at a previous meeting on 29 November was contained in his minute of 3 December to the Lord President of the Council. The Government had three effective options for action.

- i. Dismissing strikers. This was the safest of the options against legal challenge, though initially it had been ruled out on management grounds. Dismissed strikers would have no claim either for unfair dismissal or at common law.
- ii. Dismissing strikers with an offer of re-engagement. It would be possible for strikers to challenge dismissal on this basis either in an Industrial Tribunal or at common law in the Courts. There was a significant risk that a challenge might be successful in an Industrial Tribunal, but it was unlikely that it would succeed at common law.
- iii. Giving notice to strikers amending unilaterally their terms and conditions of service. The risk of challenge in an Industrial Tribunal would be less than in the case of option ii. because employees would have to show that they had been constructively dismissed, to do which they would have to resign. The risk of challenge at common law, however, was higher than under option ii. because there was doubt whether the Crown had the right unilaterally to vary the terms and conditions of civil servants. The position of the Crown had been strengthened by the statements in the judgements of the House of Lords in the Government Communications Headquarters (GCHQ) affair, but it was far from clear how far those statements could be taken. There was, therefore, still a significant risk of a successful challenge at common law to unilateral variation.

SECRET

SECRET

Taking into account all the arguments, including the management arguments against dismissals, unilateral variation of terms and conditions of service appeared on balance to be the best of the three options.

In discussion, it was pointed out that Miss Purvis, the Newcastle Branch Secretary of the Civil and Public Servants' Association (CPSA), was reported in the press that morning as saying that she would have to allow her members to "reconsider" if the National Executive of the CPSA did not agree at a meeting on the following day to escalate the dispute. This might be no more than an attempt to bring pressure to bear on the National Executive to support the strikers, but it could be a genuine sign that the strike might end within the next few days.

THE LORD PRESIDENT OF THE COUNCIL, summing up a brief discussion, said that the Group were agreed that it would be premature to take action which would raise the temperature in the dispute and carry a risk of legal challenge while there was a chance that the strike might end shortly of its own accord. The Group had not decided what action to take if the strike continued. Some members took the view that early action was necessary to try to end disruption of services and prevent the cost of the dispute from increasing further, others that it might still be inadvisable to proceed with any action carrying a strong risk of legal challenge. It would be necessary for the Group to consider, once the outcome of the meeting of the CPSA National Executive on 5 December and the reaction of the strikers were known, whether it would be possible for them to agree a unanimous recommendation which he could commend if necessary to Cabinet at their meeting on 13 December. In the meantime, the Solicitor General should consider the position in which the Government would find itself and the courses of action open to it in the event of a successful challenge either in an Industrial Tribunal or in Court to unilateral variation of the strikers' contracts; and advise further.

The Meeting -

1. Took note, with approval, of the Lord President of the Council's summing up of their discussion.
2. Invited the Solicitor General to advise further on the matters indicated by the Lord President of the Council in his summing up.

SECRET

-4 - 4

