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From the Chancellor of the
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The Rt Hon Nigel Lawson MP
Chancellor of the Exchequer
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NSM

Law Nigel,

CIVIL SERVICE RETIREMENT AND RE-EMPLOYMENT POLICY

In his letter of 16 January, Patrick Mayhew provided advice on the legal aspects of ending the practice whereby civil servants can retire formally at age 60 and collect their lump sum superannuation benefit even though they are immediately re-employed in the same grade. As I mentioned in my letter of 1 May 1984 (to which Patrick Mayhew was responding) while the new policy has been implemented administratively in most departments, this has not been possible in several major departments covering some 30% of the Civil Service; the problem being that the staff who remained in service after age 60 have under those departmental staff rules an entitlement to the option of formal retirement and re-employment in order to get the lump sum under the PCSPS.

Patrick Mayhew's letter explains clearly the legal objections to proceeding either by amending the PCSPS to postpone the payment of the lump sum until final retirement or by unilaterally removing the option of formal retirement and re-employment that appears to exist as a legal entitlement in some departments. We are, therefore, thrown back on primary legislation as the only way to ensure application of the policy throughout the Civil Service. But quite apart from the objections to this which Patrick Mayhew identifies, it would be a highly controversial step to take in a matter of this sort and I do not think we would wish to contemplate it.

This leaves us in a difficult situation. The new policy has been implemented in over two-thirds of the Civil Service but not in the remaining one-third. My understanding is that Patrick Mayhew's advice does not affect the position of

departments which no longer allow the option of formal retirement and re-employment (though they will need to check with their legal advisers that the change has been effectively and lawfully made). It could of course be argued that in the circumstances we should, on policy grounds, cancel the changes that have already been made given that we cannot apply a standard practice. But this would be administratively difficult; and it would still not produce a uniform situation since departmental practices varied before 1984 (and responses to my letter of 1 May 1984 suggested that colleagues would be equally opposed to backtracking).

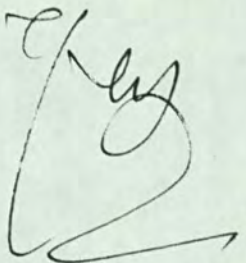
Unless you or others see objection, I therefore propose that:-

(a) we should seek to maintain the present position, while recognising that, at least for the time being, there are no practicable steps we can take unilaterally to remove completely the option of formal retirement and re-employment in the same grade, where that option arises from a legal entitlement;

(b) it should remain our objective to extend the new policy Service wide. So those departments where the new policy has not been applied should seek to make the change, with the agreement of their Trade Union Sides, as and when opportunities arise to do so, for example in the context of wider discussions about age retirement policy and practices.

I am sending copies of this letter to the Prime Minister, other Ministers in charge of departments, to Patrick Mayhew and to Sir Robert Armstrong.

GOWRIE

Yours,
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