



CONFIDENTIAL

John MacGregor Esq  
The Chief Secretary of the Treasury  
Treasury Chambers  
Parliament Street  
London SW1P 3AG

My Dear John:

REMUNERATION OF BARRISTERS

Thank you for your letter of 26th February.

I agree that we should meet but not at present since such a meeting would be highly damaging to our case. I am conscious of the remits E(A) gave me, but my immediate concern has to be to ensure that I win the litigation.

I still intend to make regulations providing for the 5% increase from 1st April. If we lost the case the only effect could be that the Bar would not get its 5%. The current rates would be retained until the end of June. In the interval we would in any event have to consider our course of action, and there would be time for this.

Affordability is only at the fringe of the Bar's case. Their case is that I have refused to negotiate after having given them fair and reasonable remuneration. The decision on the rates is mine, but in making that decision, I have to "have regard to" the principle of fair remuneration for work actually and reasonably performed, and that must mean my giving proper consideration to what that might be. The statute does not preclude me from taking into account other relevant considerations, including affordability.

The Bar's case is that there has been a failure to meet the Bar's legitimate expectations about consultation and negotiations. If we were to lose, there could be damaging implications for negotiations between the Government and others that it employs or pays for directly, or indirectly. My response to this argument is that I have made a decision only in respect of the routine uprating from 1st April. It was necessary for me to do that in order to reflect inflation since the current limits were set on 1st April 1985 and thus were no longer fair. That is the only decision I have taken. In respect of the major restructuring and increase in fees requested by the Bar, I said, in my letter of 7th February, that I wished to have further discussions, and expected to do so.

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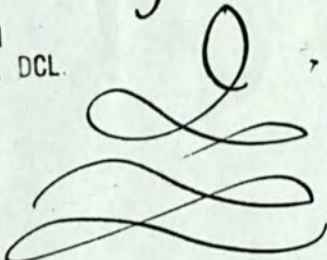
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My officials wrote to Coopers and Lybrand, who have been retained to negotiate in these matters for the Bar, suggesting talks to clear the ground for these discussions. The Bar's immediate reaction was to refuse to talk to us at all, unless I withdrew my "decision" to increase the rates by no more than 5%. But in the last couple of days, there has been some sign of movement on the part of the Bar, and it looks as if they may now be prepared to have discussions. I suspect that this is largely a tactical move, but it is obviously of great importance that I do not appear to be holding back. On counsel's advice, I have arranged to meet the Chairman of the Bar next week to take up his offer of "talks about talks". It should then become clear whether there is any basis for serious discussions. Until we know that - and have a clearer idea of how the litigation, including the Law Society's application, is likely to develop - any discussion on our part could well give rise to speculation about my bona fides.

I am copying this letter to the Prime Minister, to members of E(A) to Michael Havers and Patrick Mayhew and to Sir Robert Armstrong.

Yrs:

From THE RT. HON. LORD HAILSHAM  
OF ST. MARYLEBONE, CH, FRG, DCL.

A large, stylized handwritten signature in black ink, consisting of several loops and flourishes, positioned below the typed name.

HOME AFFAIRS.

CIVIL LEGAL  
AID WORK

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