

Prime Minister <sup>SEND / (1)</sup>

Sir Robert Armstrong has no comments.



Agree

not to

Proceed at present or no

Agree with the Chancellor not to proceed with an announcement on negative noting?

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

Agree circulation of the official note to colleagues, as proposed in para 8?

Yes

PRIME MINISTER

DMB  
12/10

**OBLIGATIONS OF CIVIL SERVICE MANAGERS - "NEGATIVE NOTING"**

Michael Scholar's letter of 3 May recorded your reactions to a report by officials on whether participation in industrial action should be formally recorded on each civil servant's personal records. The report from officials on the Standing Group on Industrial Action (GIA), commended to you by my predecessor, favoured the existing informal approach, designed to focus on the behaviour of those most active in disruption. Your reaction was to favour the more comprehensive formal "negative noting" of every individual's participation in industrial action. You thought the announcement of such a procedure could be salutary, and might best be made soon, at a time when industrial relations are improving, rather than at the time of a dispute.

2. Officials have completed their examination of ways in which such "negative noting" might be put into practice, and have concluded that the most effective system would be the noting of individual personal files. They have suggested that it would be desirable to limit this noting to those of Higher Executive Officer level and above. This would draw attention to the special responsibilities of staff at managements level and would cut out excessive paperwork about junior staff. A summary of the paper by officials is attached.

3. I have come new to this subject, and have looked into it very carefully. I agree that if we are to go down this road officials have identified the best way forward. But both Grey Gowrie (with whom I have discussed this) and I have been through all the arguments, and I have discussed them with Peter Middleton and other senior officials. The unanimous advice I have had - and with which Grey Gowrie and I agree - is that it would not be sensible to make an issue of noting files at the present time.

4. No-one has ever suggested that there is an issue of principle here. I do not think that any individual or union could properly sustain objection to an employer



keeping records of the reliability of this staff during industrial disputes. And of course all departments should be doing this in the manner which they think most appropriate for their management purposes. What is now at issue is whether all departments should have to have the same form of formal comprehensive records and whether this new requirement should be publicly announced. I believe that such an announcement could be damaging to our other policies.

5. As I see it, a system of formal noting would not really serve our purpose because:

- a. it would not in fact be truly comprehensive. For example, those who actively support or even mastermind selective industrial action, but who are not directly involved, would escape;
- b. where very large numbers of staff take action, as in 1981, the formal records would be too generalised to be much help; and
- c. it would divert into the creation of a formal records system effort which ought to go into the more sophisticated informal monitoring of the activities of agitators.

6. Moreover, an announcement now could be damaging because:

- a. it would be seized on by militant elements, presented as a political rather than a management move, and unfairly misrepresented as an attempt to victimise union members, and bar anyone who had ever taken industrial action from promotion. Of course we would face such charges at any time, and need not lose much sleep over them. But they would carry less credibility among non-militants if our announcement came in response to action by militants, rather than as a new initiative by us, unprovoked and out of a clear blue sky;
- b. we have a number of important issues in play with the unions at present. For example, we are discussing the longer term arrangements for pay bargaining and the handling of the 1984



negotiations, programmes of privatisation, and the introduction of new technology. It is in our interests to strengthen the hands of the moderate union leaders in these discussions, rather than create a diversion which might fuel the militants' cause;

- c. some discreet outside enquiries have revealed that other (including private sector) employers do not seem to have formal procedures of this kind. The raising of the issue in Civil Service might give rise to a more general debate. Other employers might not welcome it if a spotlight were turned on their own more informal procedures.

7. My own view is that the most effective weapon to reduce support for industrial action in the Civil Service will be careful strategic handling of potential disputes. One of the reserves in our armoury would remain the possibility of the announcement of "negative noting". But its use would need to be carefully weighed in the context of each particular dispute.

8. I hope you will agree. If so, I would circulate the note by officials to the Cabinet colleagues most concerned, but tell them that you and I have decided not to proceed for the present with a formal announcement about "negative noting". But I would ask colleagues to ensure, as a matter of priority, that the measures in the pipeline for emphasising the obligations of managers at times of industrial disputes, are actively pursued, and to check that informal procedures for more selective monitoring of the reliability of staff, and control of allocation of staff to sensitive posts, are effective.

9. Copies of this minute go to Grey Gowrie and Sir Robert Armstrong.

*N.L.*

(N.L.)

10 October 1983

PROPOSALS FOR RECORDING OF INDUSTRIAL ACTION

SUMMARY OF NOTE BY OFFICIALS

INTRODUCTION

1. Following GIA reports on the obligations of managers and on the noting of files, officials were asked to consider ways in which formal records could be kept of the involvement of individual civil servants in industrial action so that this can be taken into account in considering their future postings and promotion.

COURSES EXAMINED

2. Three courses were examined:

- i. a formal procedure requiring industrial action to be noted on annual staff reports;
- ii. the maintenance of centrally held records in each department;
- iii. noting separately the personal files of the individuals involved in industrial action.

3. Officials have concluded that the recording of industrial action on annual staff reports (course (i)) would be haphazard and unreliable, mainly because of the level to which reporting is delegated in the civil service; and that a central list (course (ii)) would lead to inconsistencies and be difficult to keep private. They have, therefore, come down firmly in favour of (iii) - noting personal files. On balance they favour noting being confined to Higher Executive Officer level and above.

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NOTING OF PERSONAL FILES - PROCEDURES

4. The introduction of a policy of noting personal files would need to be accompanied by broad guidance from the centre. Within that guidance, departments will, because of their different practices, have scope to develop their own procedures and systems. The common aim will be to ensure that the note is available when postings and promotion decisions are to be taken.
5. For consistency, industrial action would be noted if it involved a breach of contract which resulted in a loss of pay (whether from strike action, or the use of the Temporary Relief from Duty or Reduced Pay option procedures). This would be achieved by copying existing records of pay deductions to individual personal files.
6. There would be no change in the policy that industrial action in support of a civil service dispute (as opposed to sympathetic industrial action) is not normally a disciplinary matter. But, to avoid the suggestion that management was, in effect, introducing disciplinary procedures by another route, it will be important to emphasise that the record of industrial action would be only one of the factors to be taken into account in considering individuals for particular posts or promotion.
7. A formal announcement of the introduction of 'negative noting' would be required on the lines of Annex 'A'. The draft notice makes it clear that the policy applies only to future industrial action in order to respect provisions in the return to work agreements concluded at the end of the 1981 national pay dispute and of some subsequent departmental disputes recording undertakings that industrial action taken on those occasions would not be noted on personal records.
8. As regards the timing of an announcement, there is a balance of argument between doing so at a time of comparative industrial relations calm or waiting until there is the threat of widespread industrial action.

ANNEX A

DRAFT CIRCULAR TO ALL CIVIL SERVANTS

1. This circular sets out and clarifies for the information of all staff the Government's revised policy towards industrial action taken by civil servants.
2. Taking part in industrial action either by being on strike or taking action short of a strike, where a civil servant fails to fulfil his terms and conditions of service, is a breach of contract.
3. Civil servants who take industrial action in connection with disputes which are not about Civil Service terms and conditions of service are liable not only to loss of pay and allowances but also to disciplinary proceedings in accordance with departmental procedures. However, disciplinary procedures are not normally initiated in the case of unauthorised absence or refusal to perform duties in accordance with terms and conditions of service where these actions are taken in furtherance of a dispute about the terms and conditions of service of civil servants.
4. In considering promotions or postings to management levels departments must necessarily take into account all relevant information, including the attitude of staff towards industrial action and their obligations as managers. In this context participation in industrial action is a relevant factor in forming a judgement on the suitability of an individual for management positions. Taking part in industrial action will not in itself be a bar to appointment to a post or consideration for promotion. But it will be a factor to be taken into account at the appropriate levels along with an individual's record as a whole in reaching decisions of this kind.
5. In order that the necessary information is available on a consistent basis, any industrial action which is taken by civil servants at HEO or equivalent level or above which results in a loss of pay will in

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future result in a record of that action and the subsequent loss of pay being recorded on his personal file. Staff will wish to be aware of this change in the administrative arrangements for recording cases of industrial action.



FWB

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(W)

cc N.O.

10 DOWNING STREET

*From the Private Secretary*

17 October, 1983

The Prime Minister was grateful for the Chancellor's minute of 10 October about "negative noting". She agrees not to proceed at present with a formal announcement about "negative noting", and to circulation to colleagues of the official note, as proposed in paragraph 8 of the Chancellor's minute.

I am sending a copy of this letter to Mary Brown (Lord Gowrie's Office) and Richard Hatfield (Cabinet Office).

(David Barclay)

J. Kerr, Esq.,  
HM Treasury

A handwritten signature, possibly 'JL', in dark ink.