

CE NO 3



Treasury Chambers, Parliament Street, SW1P 3AG
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DWS
1/11

31 October 1983

The Rt Hon Michael Heseltine MP
Secretary of State for Defence
Ministry of Defence
Main Building
LONDON SW1A 2HB

John Major

OBLIGATIONS OF CIVIL SERVICE MANAGERS AND NOTING OF FILES

With his letter of 17 March to Janet Young, Geoffrey Howe copied to colleagues the studies by the Standing Group on Industrial Action (GIA) of the obligations of civil service managers in relation to industrial action, and of the case for noting on personal files instances of industrial action by individual members of staff. The Prime Minister was content with the proposals relating to obligations but had reservations about the recommendation that there should be no change in the policy that industrial action is not formally recorded (Michael Scholar's letter of 3 May). Officials were asked to examine ways in which 'negative noting' might be introduced.

... The enclosed note by officials concludes that the most effective system of recording would be the noting of personal files, and that it should be confined to those of Higher Executive Officer level and above.

✓ The Prime Minister and I have agreed that it would not be sensible to proceed at present with a formal announcement about 'negative noting'; but that Departments should press on with the work of explaining the obligations of managers, and of ensuring that there are effective informal procedures to monitor selectively the reliability of staff and to control the allocation of staff to sensitive posts.

Establishment Officers of all Departments will be asked to put this work in hand, and I very much hope that you and the other



colleagues to whom I am copying this will do your best to ensure that it is taken forward in your own Departments as I shall do here.

I am copying this to the Prime Minister, Norman Fowler, Norman Tebbit, Tom King, Michael Havers, Grey Gowrie and Sir Robert Armstrong.

A handwritten signature in ink, appearing to read "Nigel Lawson", with a long horizontal stroke extending to the right.

NIGEL LAWSON

PROPOSALS FOR RECORDING OF INDUSTRIAL ACTION

Note by Officials

Introduction

1. Following the reports prepared by GIA on the obligations of managers and on the noting of files officials have been 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. This note considers the possible options; their application in practice, and the timing of any move to introduce new procedures of this kind.

The GIA proposal

2. The GIA report on noting recommends that the present policy of not formally recording all instances of industrial action on personal files as a matter of routine should be continued; but that other steps should be taken informally to ensure that staff who have a propensity to take industrial action are not posted to management positions or other sensitive jobs at lower levels. These procedures would not have excluded the noting of files in certain circumstances but would have relied primarily on management judgements rather than on any formalised procedures. There is, however, concern that this approach might be too haphazard and ineffective.

Possible courses

3. There are three possible approaches which might be adopted:
- 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.

i. Noting annual reports

4. The annual report is a formal record of performance produced for all staff and held on personal files, and is normally referred to in consideration of promotability. But there are practical difficulties in the way of relying on the annual report for noting industrial action:

a. completion of annual reports is delegated throughout the service, usually to the immediate superior who may be at no more than Executive Officer level. Consistency would be hard to achieve, and central guidance would be difficult to produce, highly contentious and possibly counter-productive;

b. reporting officers may well be involved in industrial action themselves; this too would militate against consistency;

c. annual reports may not be referred to in later years during posting or promotion action.

ii. A central record

5. The maintenance of a central record listing staff who have taken industrial action (and which could be consulted when management was considering postings and promotions) would be less arbitrary than the noting of annual reports. There would be a lesser risk than in the noting of files that it might be perceived as a form of disciplinary action. But there are two main objections to it. First, centrally (or locally) held records would soon become regarded as "black lists", open to the criticism of being less private than personal files. Second, larger departments, which deal with postings and promotions on a regional basis, would need several lists, which apart from leading to practical difficulties could also result in inconsistencies. Also in larger departments there is a greater risk of the lists becoming public.

iii. Noting personal files

6. The third, and preferable, course would be for instances of industrial action to be formally noted on the personal files of the individuals concerned. With the issue of relatively simple guidance

as to the form of words to be used, this could offer less risk of inconsistency or discrimination in the way information was recorded - although there might inevitably be inconsistency in the way in which it was used but this would be true under any of these approaches.

Form and practice of noting

7. It would be necessary to decide what formal records of industrial action should be maintained on personal files. The details of any disciplinary offences, whether relating to an industrial dispute or not, are already placed on an individual's file. In addition a copy could be placed on the individual's personal file of any instruction for a deduction from an individual's pay as the result of industrial action. A formal instruction is already issued to pay centres when pay is adjusted following industrial action. By limiting formal noting to cases of this kind management would in effect be recording when an individual had been:

- (a) on strike;
- (b) subject to Temporary Relief from Duty;
- (c) subject to a reduction in pay for failure to carry out the full range of his duties.

8. The record would not include cases where an individual had taken industrial action which did not involve breach of contract leading to a loss of pay, for example in the case of refusal to work non-contractual overtime. But apart from cases involving loss of pay or the institution of disciplinary procedures an individual could argue that since no action had been taken against him it would be inequitable for a record to be made on his file. To limit noting to those instances would make it less subjective, more easily definable and more defensible. Individual departments would need to clarify the mechanisms to bring to attention information recorded in this way when decisions on posting or promotion were being taken.

Coverage

9. It could be argued that only those in management positions should have absences recorded. This would be more consistent with the GIA proposals on the obligations of managers and many departments consider

it would avert the inevitable hostile reaction to "negative noting" from junior staff for whom such a policy is seen as counter productive. There are also real practical difficulties in recording industrial action for large numbers of junior staff, not least the ability of Personnel Managers to deal with it and cost but also securing acceptable "return to work" agreements. But it is not always possible to have a clear definition of the dividing line between management and staff and there are posts at junior levels which are sensitive. Moreover, many of those in the lower grades will be considered either in the short term or in later years for managerial or supervisory posts. The balance of arguments is seen by departments as being in favour of confining it to HEO level and above.

Disciplinary action

10. Participation in industrial action in support of a civil service dispute is not, as a matter of policy, made the subject of disciplinary proceedings and it would be desirable to retain this position. But to avoid the suggestion that management was, in effect, seeking to introduce disciplinary penalties by another route, it would be necessary to make it clear to staff that a record on a file would be only one of the factors to be taken into account in considering individuals for particular posts or for promotion. The arrangements would not, therefore automatically bar individuals from particular posts, nor would they amount to a bar on promotion or consideration for promotion; these penalties could only apply in the event of disciplinary proceedings. It would therefore be necessary to make it clear that the new administrative arrangements were being introduced simply to ensure that management had available to it all relevant information when considering staff for posting to management positions, for other sensitive posts or for promotion.

Timing

11. Since the intention would be to influence the future behaviour of staff it would be necessary to publicise the new procedures. There would be an immediate and hostile reaction from the unions and from staff and the trade union movement as a whole might pursue it as an issue of principle. There would inevitably be a set-back to the

SECRET AND PERSONAL

present limited improvement in industrial relations with the Civil Service unions and this could have an adverse effect on the present discussions with them of new long-term pay arrangements. If the announcement of new procedures was delayed until there was an apparent threat of widespread industrial action the new measures could be related more directly to that threat and their announcement act as a deterrent to industrial action. But in a highly charged atmosphere the announcement would certainly be seen as a provocative act. On the timing of any announcement there is, therefore, a balance of argument.

Notice to staff

12. Annex A illustrates the kind of notice that should be distributed to staff. (it is based on the assumption that noting will be confined to grades at HEO level and above). Any such notice would need to make 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.

SECRET AND PERSONAL

ANNEX A

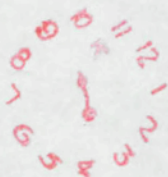
DRAFT CIRCULAR TO ALL CIVIL SERVANTS

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.

C/S: Long term Policy: Pt-12



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cc NO

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

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bus
16/1

11 January 1984

MT

The Rt Hon Norman Fowler MP
Secretary of State for Social Services
Department of Health and Social Security
Alexander Fleming House
Elephant and Castle
LONDON SE1 6BY

Prime Minister (2)
To be aware.

Norman

You agreed the line at X
in March last year.

Dms
13/1

OBLIGATIONS OF CIVIL SERVICE MANAGERS

You wrote to me on 20 December, reporting on the extent to which you have been able, as a result of correspondence with the unions, to put over a message about the obligations of local office managers. This is encouraging.

You ask if I am content that you should now issue written guidance to some 7000 officers who are of HEO rank and higher, given that this could hardly remain an unobtrusive process. I do not believe it would be right to do so. The circulation of written guidance of this kind would run counter to the strategy recommended by the Standing Group on Industrial Action (GIA) which we endorsed last spring.

X | As you may recall, we decided then that Departments should brief managers on their obligations in a low key way, through the many informal opportunities which exist on training courses, briefings on new postings, job appraisal reviews and so on. GIA felt that the possibility of a general notice to managers should only be considered if major industrial action were imminent.

I believe that this is right and gives us the chance to choose both the ground and the timing of any high profile initiative. My officials and Grey Gowrie's are ready to discuss this further with yours if you think that would be helpful.

I am copying this as before.

Nigel Lawson

NIGEL LAWSON

MR N. Clarke
MR Doran
MRS Kirk



cc NO

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 Nigel Lawson MP
Chancellor of the Exchequer
Treasury Chambers
Parliament Street
LONDON
SW1P 3AG

20 December 1983

OBLIGATIONS OF CIVIL SERVICE MANAGERS AND NOTING OF FILES

Thank you for my copy of your letter of 31 October to Michael Heseltine.

My Department has already made considerable progress in making it clear to managers what their obligations are. Last year the PEO here corresponded with Mr Gerry Gillman, the General Secretary of the Society of Civil and Public Servants, on the subject of what is expected of our local office managers in the event of industrial action. The correspondence, which makes clear our expectation that managers' obligations to manage takes precedence over their loyalties to their union, was promulgated to the 500 or so local office managers (of whatever rank - a few EOs, some HEOs, the majority being SEOs and Principals).

The correspondence was also circulated to SEOs and above in our North Fylde Central Office.

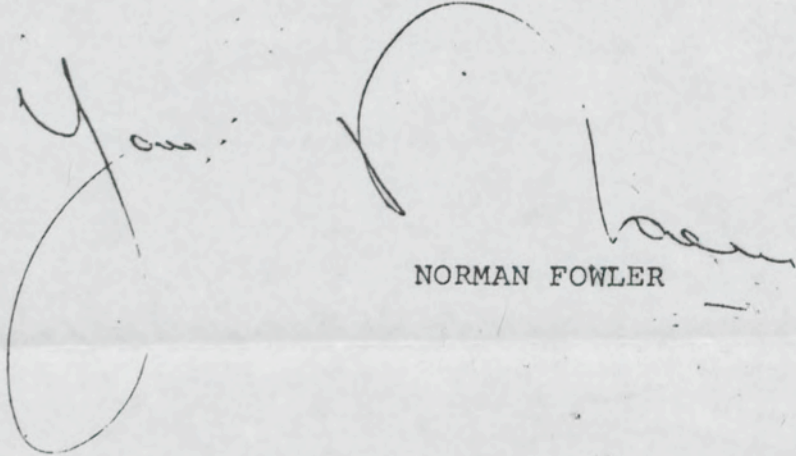
During 1983 we have been in correspondence with the Society and with the General Secretary of the First Division Association about the action of 12 officers of managerial rank in joining the one-day strike called here on 3 December 1982 to show solidarity with the strikers in Birmingham social security offices.

I propose to ask the Principal Establishment Officer to act in the way that your letter requires. But you will see that because of the way we have proceeded so far (by making our expectations clear by writing to the people affected) we really have little choice but to make any extensions of the groups affected in the same way. Before we embark on such a course, I wonder if you could confirm that you are content with the consequences. We should be issuing guidance to some 7,000 officers who are of HEO rank or higher, and this can hardly be an unobtrusive process.

E. R.

We will have no difficulty with informal procedures for monitoring selectively the reliability of staff and controlling their allocation to sensitive posts.

I am copying this letter to recipients of yours.

A large, stylized handwritten signature in black ink, appearing to read 'Norman Fowler', is written over the typed name.

NORMAN FOWLER

John
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MINISTRY OF DEFENCE WHITEHALL LONDON SW1A 2HB

TELEPHONE 01-218 9000
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MO 20/17/6

15th November 1983

See Nigel

nbpm
DMS
17/4

OBLIGATIONS OF CIVIL SERVICE MANAGERS AND
NOTING OF FILES

Thank you for your letter of 31st October enclosing a note by officials about how best to record instances of industrial action by individual members of staff.

I note that it is not intended at present to make a formal announcement about 'negative noting'. We shall need to think carefully about the effect such an announcement could have against the circumstances of the time before deciding when it should be made.

My Department already has a regular pattern of briefing managers about responsibilities including obligations in relation to industrial action. The Principal Establishment Officer here is again reviewing existing procedures to ensure that active supporters of industrial action are not placed in sensitive jobs.

I am copying this letter to those who had copies of yours.

Yours ever
MH
Michael Heseltine

The Rt Hon Nigel Lawson MP

Civil Service
Long Term
Pt 14

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