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

21 November 1983

The Rt Hon Michael Heseltine MP  
Secretary of State for Defence  
Ministry of Defence  
Main Building  
Whitehall  
London SW1

TSRB PENSIONS

In my absence abroad, Barney Hayhoe acknowledged your letter to me of 20 September and suggested it would be helpful if our officials got together to consider the options open to us before I sent a substantive reply. I enclose a copy of the paper they have produced.

My concern is twofold. First, I want to avoid further entrenching the practice of backdating pay for pension purposes which has been followed in some previous years. This seems to me to be undesirable in itself and also in the example it sets the private sector, where tax revenue can be at stake. Second, we must not endanger the stand which has been taken this year by Norman Fowler in relation to doctors and dentists, and by John Biffen in relation to MPs, where we have refused proposals for backdating. Thus we should in my view stand firm on Option 5 in the paper by officials.

Of the other options identified, Option 4 (modification to the Armed Forces Pension Code) would help only the Armed Forces and thus would clearly make difficulties for the other TSRB groups. Option 3 (backdating the 1 August increase for those who voluntarily retired between 1 April and 1 August) seems to me to be likely to lead to claims of inconsistency. Option 2 (in effect backdating the August increases to April) even if done as an act of grace and fairness, would seem to concede the principle of backdating and could raise awkward pressures for doctors etc. And of course, I should want to resist very

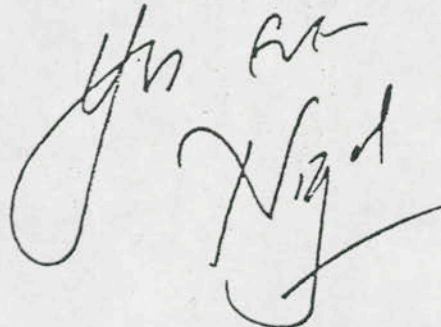


strongly indeed Option 1 (fully backdating both the August and January increases to April.)

I recognise the difficulties you and the Lord Chancellor see in Option 5. Indeed I have some of these myself, since I am responsible for the pension arrangements for senior Civil Servants. But in a situation where all solutions suffer from serious disadvantages, this seems to be the least objectionable and I hope, therefore, that on reflection you will be prepared to accept it.

In any event, I agree with the suggestion in paragraph 7 of the note by officials that we should review the pension arrangements for the TSRB groups to see what could be done to minimise problems in any future year in which we wish to give pay increases for these groups from a date other than 1 April.

I am copying this letter to the Prime Minister, the Lord Chancellor, the Lord Privy Seal, the Secretary of State for Social Services and Sir Robert Armstrong.

A handwritten signature in black ink, appearing to read 'Nigel Lawson'. The signature is written in a cursive, somewhat stylized hand. Above the main signature, there are some faint, less distinct markings that could be interpreted as initials or a second signature.

NIGEL LAWSON



## TOP SALARIES PAY AWARDS - DATE FOR PENSION PURPOSES

This note, which has been prepared by the Treasury after consultation with interested Departments, discusses the question that has arisen of the date to be taken for pensions purposes of the recently announced pay increases for TSRB groups.

Background

2. On 21 July 1983 the Prime Minister announced the Government's decision on Report No 19 of the Top Salaries Review Body (TSRB) about the pay of certain top salary groups. The decision was that these groups should receive an increase in pay from 1 August 1983 equivalent to the difference between the TSRB recommended rates at 1 April 1982 and 1 April 1983, averaging around 6.9 per cent; and a further increase from 1 January 1984 equivalent to the amount withheld in 1982 from the TSRB recommended rate at that time, averaging around 5 per cent.

3. This decision followed the announcement before the Election of decisions in connection with the AFPRB and DDRB Reports. The AFPRB recommendations were accepted in full from 1 April 1984, while for DDRB the difference between the recommended rates at 1 April 1982 and 1 April 1983 (about 6 per cent) was awarded from 1 April 1983, while the amount held back in 1982 from the 1982 award (about 2.7 per cent) was awarded from 1 January 1984.

Pensions dates

4. The question is whether, for pension purposes, it is the salaries actually in payment at any moment in time for these groups which should be the operative figure. This approach has been adopted for the doctors and dentists (and also for MPs, though the arguments there are a little different). On the other hand it does not follow the precedents set in 1975, 1978 and 1979 for the TSRB groups (and in 1978 for all the Armed Forces and in 1979 for MPs) when the recommended rates from 1 April of each year, rather than the rates in payment,



were used for pension purposes. In those earlier years, however, the higher rates were promulgated as the rates for the jobs with part withheld in the national interest; such a formulation is necessary to meet Inland Revenue's requirements which guard against abuse in the pension field generally by preventing pensions being based on purely fictional salaries.

5. The decision by Treasury Ministers to stick to amounts in payment for 1983-84 has led to representations in respect of each of the three cases of the TSRB groups; the higher Civil Service, the judiciary and the Armed Forces. What is decided for the higher Civil Service will also determine the policy for a number of other public officers with pay links. (For instance, as it happens both Clerks of the Houses of Parliament, whose pay and conditions follow that of Permanent Secretaries, retired at the end of July when Parliament rose and stand to be caught if nothing is done for civil servants.) Pension arrangements for the three TSRB groups vary, but in each case people retiring between 1 April 1983 and 1 January 1984 would be worse off under the proposed arrangements than had pay been deemed to have been increased from 1 April 1983. The Annex sets out some of the effects; these are particularly marked for the Armed Forces.

#### The Options

6. There are a number of possible options for the handling of pensions, in the light of the decisions on salary increases :-

Option 1 - deem the 1 January 1984 salaries to apply from 1 April 1983 for pension purposes for all TSRB groups.

This would follow what has been done on occasions in the past and would most completely dispose of the anomalies. Nevertheless it has drawbacks. It would have undesirable repercussions for what has now been settled for doctors and dentists, and perhaps for MPs, and it would involve reversing the line already taken (and accepted) in many individual cases. It could just call in question the treatment of people who retired in 1982-83; it is true that at the time there was no assurance that the abatement



of April 1982 would ever be made good, but now as a question of fact it is to be restored. And by providing yet another precedent of deemed backdating of salaries it would make it more difficult to hold to a practice in future of basing pensions on salaries actually received; this will be important, for instance, in the case of Civil Service grade restructuring where the associated pay changes may need to be phased in on both equity and cost grounds.

Option 2 - deem 1 August 1983 salary to apply from 1 April 1983 for pension purposes for all TSRB groups.

This approach still involves a measure of deemed backdating but it could be justified not on the grounds that such backdating was of itself acceptable - indeed it could be made clear that the practice of deeming higher salaries for pension purposes would not normally be adopted in future - but because given past history and in particular the recent decision on doctors and dentists people had a reasonable expectation that the increases that were actually given from 1 August would have been given from 1 April - or at the least count for pension purposes from that date - and to that extent fairness made this degree of exceptional backdating reasonable. On the other hand while it is unlikely that this option would affect the position on MPs and civil servants lower down, it could well lead to pressure to re-open the position reached on doctors and dentists. And of course it also has the drawback that it does not go as far as Option 1 to meet the anomalies and sense of injustice which have been exposed in the representations.

Option 3 - deem 1 August 1983 salary to apply from 1 April 1983 for pension purposes for those in TSRB groups who retired voluntarily during April to July 1983.

This is a variant of Option 2, which restricts the application only to those who retired voluntarily, recognising that those concerned took a decision to retire with an expectation of their pensions reflecting a salary increase from 1 April 1983.



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This restriction would in practice involve a difficult distinction between those who were simply caught by the workings of the system - those whose retirement dates were fixed; and those who could have taken a different decision and by not doing so may have worsened their condition. The problem with this approach is that it would create a difficult grey area and would mean that the policy was left to depend upon an individual's circumstances where the motivation for departure might not always be clear cut; and where indeed people who came to some minimum retirement date (and would therefore be excluded from the concession) might have had the option of staying on had they known. Moreover, it would cause invidious comparisons between individuals and invite the argument that those who were required to leave had no lesser case than those who left voluntarily.

Option 4 - do nothing so far as senior civil servants and the judiciary are concerned but continue the 1982 Code for Armed Forces Officers retiring in April-July 1983.

This would recognise the very special nature of the Armed Forces Code. It would enable Armed Forces Officers retiring during 1 April to 31 July 1983 to benefit from the 1.6 per cent pensions increase incorporated in the 1982 Pension Code. While it would ensure that they did not receive less than those of the same rank who retired before 1 April 1983, the Ministry of Defence feel that it would do little to remedy the injustices felt, especially with respect to the reduced terminal grants, and is less attractive than Options 1 or 2 even for Armed Forces Officers. It would do nothing for senior civil servants and the judiciary.

Option 5 - hold strictly to the operative dates of 1 August and 1 January for all.

This Option would avoid notional backdating of salary for pension purposes. It would involve the Armed Forces publishing three Pension Codes during 1983-84 which is complicated and undesirably divisive but not impossible.



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No particular action will be required for the senior Civil Service and the judiciary whose schemes would simply take note of the salary in payment and be operated accordingly. On the other hand clearly this Option does nothing to help with the evident anomalies under the Armed Forces scheme, or with the more general representations being made.

7. Whatever is decided for this year there is a case for reviewing pension arrangements for TSRB groups, especially Armed Forces, with a view to seeing whether it is possible to ensure that if Ministers choose in future years to increase pay during the course of the financial year in the sort of way that was done in 1983-84, pension problems and anomalies are minimised.

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Financial effects of basing pension on salaries in payment

The effect is softened for civil servants in that pensions are based on average salary. However for those retiring on 31 December 1983 with 38 years' service, the amounts at issue still range from £634 to £1,237 per annum for pensions and £1,902 to £3,711 for lump sums.

2. There is a sharper effect for judges where pensions are based on the rate of salary at retirement; for a retirement on 31 July 1983 the shortfall is £2,750 per annum on pension and £5,500 on lump sum for a High Court Judge and £1,375 per annum on pension and £2,750 on lump sum for a Provincial Stipendiary Magistrate. However, judges do have pensions increase calculated from the date of retirement so that those retiring earlier obtain more pensions increase than later retirees.

3. The disparities are most marked for the Armed Forces where the same rates of pension and pensions increase are prescribed for all those of equivalent rank retiring during the currency of a Pension Code (ie normally in the same year which usually runs from April to March); the amounts at issue range from £1,334 to £2,425 per annum for pensions and £4,002 to £7,275 for lump sum. Moreover, those retiring during April to July 1983 would receive smaller pensions than those of equivalent rank retiring up to 31 March 1983 and two star officers retiring between April and July would receive the same pension as their immediate subordinates.

4. Doctors and dentists have accepted actual salaries as the basis for pension, but could be involved in repercussions of decisions taken for TARB groups. The amounts involved are much lower than for the TSRB groups largely because of the payment of the first salary increase from 1 April 1983; however, the numbers involved are much greater. For retirements on 31 December 1983 the British Medical Association has represented that the shortfall for a consultant could be £225 per annum for pension and £675 for lump sum and for the average GP £203 per annum for pension and £609 for lump sum.

5. The maximum difference in overall costs of the various options for the three TSRB groups is estimated at about £0.3 million in 1983-84 and £0.1 million pa thereafter. If doctors and dentists were also affected the figures would be much bigger at £1.75 million for 1983-84, £1½ million for 1984-85 and £3/4 million per annum thereafter. Any additional costs which did arise would be absorbed within existing plans.





*cc No*

*NRBPM*  
*AT c/12*

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

2 December 1983

*Dear Nigel*

TSRB PENSIONS

I, like John Biffen, would like to support the recommendation you made on this issue in your letter of 21 November to Michael Heseltine.

*with AT*

You referred in your letter to the line I took on the similar issue in relation to the doctors and dentists. Any of the concessions referred to in the note by officials would, in my view, be bound to re-open the question of notional back-dating for pensions purposes with the doctors and dentists, where the numbers involved are much larger. I therefore very much endorse the view that we must stand firm on option 5 and make no concession on the back-dating of this year's TSRB awards for the pensions of the senior Civil Servants concerned. As you have indicated, it is also desirable to break away from the previous practice of notional back-dating.

I am copying this letter to the Prime Minister, the Lord Chancellor, the Secretary of State for Defence, the Lord Privy Seal and Sir Robert Armstrong.

*Yours etc.*

NORMAN FOWLER



Con Poi TSRB Pt 5



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CC/ND

MINISTRY OF DEFENCE WHITEHALL LONDON SW1A 2HB

TELEPHONE 01-218 9000  
DIRECT DIALLING 01-218 2111/3

MO 4/4

2nd December 1983

TSRB PENSIONS

Thank you for your letter of 21st November with its enclosure. I have also seen the Lord Chancellor's letter of 30th November. Like him, I am not prepared to let the matter rest, for two reasons.

First, I spelt out in my letter of 20th September the manifest injustices as regards the pensions of senior officers of the Armed Forces which would flow if we do nothing, as you propose. I am all for maintaining our principles, but when the price of doing so is injustice, I pause. I understand why you wish to break with the practice of "deeming" future pay for pension purposes; but there are other considerations here to which I attach great importance, and I find the immediate price of total inflexibility on this much too high.

Second, I am unpersuaded that the positions taken on MPs and doctors and dentists demand that we stay precisely where we are as regards Service officers. As John Biffen acknowledges in his letter of 24th November, the position of MPs is different because the settlement covered five years, and those who retire early in that period are likely to do so because they judge that they will thereby improve their position. No one requires them to retire, unlike Service officers who have little choice. As for the doctors and dentists, they enjoyed a pay increase on 1st April, and their pensions

The Rt Hon Nigel Lawson MP

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will reflect this throughout the period April-July when Service officers will be particularly disadvantaged. I cannot believe that action to remove officers from this trough could provide the doctors and dentists with any sort of case.

I recognize your objectives, and do not wish to press for Option 1 in the paper by officials, which might well open the field for the doctors and dentists. But I must ask you to look again at Option 2 which, as the paper explains (and your letter tacitly accepts) could be defended on public faith grounds. Furthermore provided we make plain our position for the future, Option 2 need not reinforce the precedents for deeming future pay rates for pension purposes. It would not entirely solve the problem of putting certain Service officers in yet another pensions trough, but it would certainly remove the most glaring anomalies, particularly the loss of the 2-star to 1-star differential.

If on reflection you do not feel you can move from the position in your letter then I fully endorse the Lord Chancellor's suggestion that the Prime Minister (to whom I am copying this) might wish to call together those of us principally concerned to seek a resolution of the matter. I know that she has herself received representations on it from the Officers' Pension Society.

I am also copying this to the Lord Chancellor, Lord Privy Seal, Secretary of State for Social Services and Sir Robert Armstrong.

Yours ever

A handwritten signature in dark ink, appearing to read 'Michael Heseltine'.

Michael Heseltine



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HOUSE OF LORDS,  
SW1A 0PW

30 November 1983

The Right Honourable the Chancellor  
of the Exchequer

Dubs  
2/12

My dear Nigel:

TSRB PENSIONS

with AT

I have seen your letter of 21 November to Michael Heseltine in which you effectively reject the proposal he put forward for remedying the injustice to those members of the Armed Forces and the Judiciary who retired this year before the full recommended TSRB rates for these groups came into payment.

I will not reiterate all the points made by Michael in his letter of 20 September; but they have lost none of their force in the past two months and I think we ignore at our peril the strong sense of injustice felt by those affected. They are not people who by their nature cause a great public outcry; but the lingering feeling that their loyalty to the state has been abused can have lasting and adverse effects on the morale of those who remain in service.

I have looked at the paper prepared by officials. I cannot myself see why option ii. should be so unacceptable. As I understand it that would put judges and senior officers in precisely the position enjoyed by doctors and dentists, in that their pensions would be based on the full TSRB award, less only the abatement for past years which is to be restored from 1.1.84. I really cannot accept that the arrangement which MPs have voted for themselves should be a consideration in this particular discussion. As John Biffen says in his letter of 24 November, their pay settlement was different.

While I might subscribe to your general proposition that pensions should follow pay I am not prepared to accept that it can be foisted on the public service without any consultation or debate between Ministers. The idea that there would be an element of notional backdating of pay for pension purposes has been an accepted and well-precedented practice over a number of years. By all means let us consider ending it; but let us have some

/regard to those ...

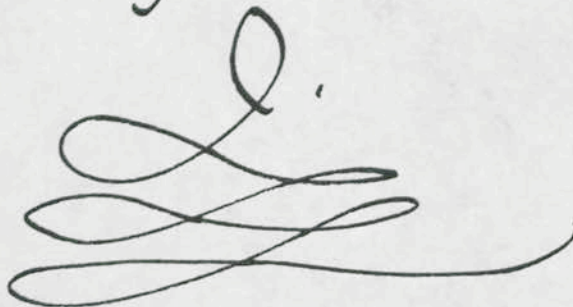


regard to those who in the absence of any indication to the contrary had come to expect it to continue and have in consequence been led to make some costly (to them) misjudgments.

I think this whole matter can only be satisfactorily resolved now by having a meeting of those Ministers involved under the Prime Minister's chairmanship; my responsibility for the Judiciary will not allow me to let matters rest where they are. Perhaps I could ask you to consider arranging such a meeting.

I am copying this to the Prime Minister, Michael Heseltine, John Biffen and Sir Robert Armstrong.

yrs:

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the bottom.

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



A+

Defence

12/12/83



21 DEC 1983







a/NO

D

PRIVY COUNCIL OFFICE  
WHITEHALL, LONDON SW1A 2AT

24 November 1983

Dear Nigel,

TSRB PENSIONS

with AT

Thank you for sending me a copy of your letter of 21 November to Michael Heseltine about the pensions options open to us in the light of the pay decisions for TSRB groups.

As you say, in considering possible changes, it will be important not to endanger the stand which has already been taken with respect to other groups, including Members of Parliament. Although the pay settlement for MPs can be regarded as somewhat different from the others in that it laid down pay levels for the next 5 years, I am bound to say that I see a serious risk of the matter being re-opened if any concessions are made to other groups. We would be faced with renewed demands to backdate the pay award for pensions purposes, and I should find it difficult to justify any outcome which appeared to favour other public service groups to the disadvantage of MPs. I strongly favour your preference for option 5.

I am copying this letter to the Prime Minister, the Lord Chancellor, the Secretary of State for Defence, the Secretary of State for Social Services and Sir Robert Armstrong.

*John Biffen*

JOHN BIFFEN

The Rt Hon Nigel Lawson MP  
Chancellor of the Exchequer



Erwin Pol  
T5723

24. April 1983  
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