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Prime Minister

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H M Treasury

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You need not read through the attached guidance in detail.

I am sure that it is useful to have guidance of this sort so that people making appointments know how to set about it and what points need to be covered.

Sir Peter Middleton KCB  
Permanent Secretary

Robin Butler Esq  
10 Downing Street  
LONDON  
SW1

Agree that it should be issued?

18 May 1984

Dear Robin

PERB

Yes mb

22.5.

SPECIAL APPOINTMENTS

The Prime Minister recently commented on delays in making appointments from outside the Civil Service to senior posts in Government departments and bodies. The Treasury had already been considering giving guidance to departments, ... on the lines attached, on handling such appointments. The aim is to help departments to deal with all the necessary issues in an orderly way and in good time, so that when a suitable candidate is identified the terms of appointment can be settled as quickly as possible.

The Chancellor agrees that it would be helpful to issue this guidance; so does Sir Robert Armstrong. We would be grateful to know if the Prime Minister would be content.

I am copying this to Richard Hatfield.

Yours sincerely  
Douglas Board

D R H BOARD  
Private Secretary



10 DOWNING STREET

*From the Principal Private Secretary*

24 May 1984

SPECIAL APPOINTMENTS

The Prime Minister has seen your letter of 18 May attaching guidance to Departments on handling special appointments. The Prime Minister agrees that it would be helpful to issue this guidance.

I am sending a copy of this letter to Richard Hatfield (Cabinet Office).

E. E. R. BUTLER

D. R. H. Board, Esq.,  
Office of the Permanent Secretary  
(Sir Peter Middleton KCB),  
H.M. Treasury.

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DRAFT LETTER FROM: Sir Peter Middleton

TO: Heads of Departments

SPECIAL APPOINTMENTS

From time to time individual jobs will arise in Government which require (usually for a limited period) a combination of experience and expertise which cannot be found within the public service. In such cases it may be necessary to pay more than the normal Civil Service rate for the job in order to attract a suitable candidate from outside. These cases are becoming more frequent. They need to be handled carefully: we must be able to defend such special rates as being no greater than the market requires us to pay for the satisfactory performance of the necessary job. But speed is also important if good candidates are not to be lost. The Prime Minister has recently said that when a suitable individual has been identified the aim should be to reach agreement on terms and conditions of employment within three weeks.

For this to be achieved each appointment must be approached from the start in a comprehensive way so that when decisions have to be taken about a particular candidate the issues to be resolved are clear and all the relevant facts are known. The attached notes, which have been drawn up jointly by the Cabinet Office (MPO) and the Treasury (and which will be incorporated in due course in the EOG) cover the main points, each one of which Departments should consider for each appointment. They are directed at Civil Service posts, but some aspects are also relevant to appointments of independent Crown Office holders and appointments to public bodies (see paragraphs 21-23).

The central departments should always be consulted at the earliest possible moment. The contact point in the Treasury should be the appropriate expenditure division. In the Cabinet Office (MPO) contact should be with the Head of the Secretariat, Civil Service Commission or the Head of Senior Staff and Europe Division as appropriate.

I am copying this to all Heads of Departments.

## SPECIAL APPOINTMENTS

### NOTES OF POINTS FOR CONSIDERATION

#### Need for the post

Before starting the recruitment procedure it is necessary to draw up a clear job description, explaining the need for the post and showing how the new appointment and its tasks will relate to the existing structure. The nature of the post should be clear, eg whether it is a Civil Service post or that of an office holder under the Crown. The grading of the post should be judged informally, and if, as will be probable, it is above delegated authority, approval for its creation should be sought from the Treasury.

2. The possibility of filling the post satisfactorily with an internal candidate should be carefully considered. SSE Division of the Cabinet Office (MPO) may be able to help in identifying internal candidates with special skills or experience.

#### Testing the market

3. If it is considered necessary to seek outside candidates a proper effort must be made to test the market. It is not sufficient to identify a few individuals known to the department and find out what would be enough to persuade them to come. For most jobs, a number of suitable candidates should be available. The aim should be to pitch the salary (or salary range) at such a level as is likely to attract a field from which a fully satisfactory candidate - though not necessarily the very best available - will emerge.

4. It should not be assumed from the outset that candidates will expect the same level of reward as is available in the private sector

or will not come for less than their current salary. Some people are willing, from a sense of public spirit, to do a spell of service in Government on normal public service terms. Others may regard the experience as an investment with potential benefits for their future career. For those with mobile career patterns a period appointment in Government may be a convenient step in their progression.

5. If the post is filled by a secondment, the seconding company will often be willing to top up the normal Civil Service salary to its own rate. However, difficulties can arise with secondments as noted in paragraphs 19 and 20.

#### Recruitment procedure

6. Under the Civil Service Order in Council 1982, recruitment to the Civil Service is required to be conducted on the basis of open competition on merit. This requirement applies as much to these appointments as to any other. The Civil Service Commission should therefore be consulted on the most appropriate recruitment procedures to be followed in each particular case. Where a permanent appointment is envisaged, or where there is a possibility of a period appointment being extended beyond 5 years, the Commission will need to be directly involved. The relevant provisions are set out in Part 3 of the Establishment Officers Guide.

7. The Civil Service Commission will be issuing guidance on the selection procedures to be followed when headhunters are used. Headhunters should only be employed where unusual combinations of experience and skills are required which could only be discovered by this means

rather than simple advertisement. And if it is agreed that headhunters should be employed, advertisements should be used as one of their methods of search. General guidance about the use of headhunters is also contained in the Guide on Public Appointments Procedures (paragraphs 93-96). The Public Appointments Unit can offer advice about particular firms.

#### Pay and grading

8. If a special salary needs to be paid, it will be necessary in the first place to establish a range for negotiation. This should be based on the best evidence or advice that can be found on the salary likely to be required (bearing in mind paragraph 3 above), and on the Civil Service rate for the particular grade of post, as informally established. In referring to possible salaries precision is important; phrases such as "based on the Under Secretary rate" can lead to misunderstanding.

9. An advertisement should contain an adequate statement about pay, so that anyone eligible can reasonably decide whether it is appropriate for him to apply. The salary offer in an advertisement needs to be framed so that the advertisement will serve as a test of the market to see if suitable candidates are available on normal public service terms, and if not, to confirm the salary which needs to be paid. The advertisement should be worded so as not to exclude an application from an existing public servant who claims to offer the expertise the post demands. It is not acceptable to offer a candidate terms and conditions which are significantly better than those mentioned in the advertisement because if the improved terms had been known from the

outset a different field of candidates might have applied. Careful consideration therefore needs to be given to the question of salary before an advertisement is prepared in order to reconcile proper recruitment procedures with the need to ensure that salaries are, and are shown to be, no higher than the market requires. The text of the advertisement should be cleared with the Treasury and the Civil Service Commission.

10. If the successful candidate is from outside the Civil Service and a salary above the Civil Service rate is to be paid a formal grading should preferably not be adopted. The position of the post in its hierarchy can usually be shown in an organisation chart without indicating or implying a precise grading.

#### Superannuation

11. Period appointments to the Civil Service are automatically covered by the PCSPS unless specific arrangements are made to exclude them. This can involve significant extra costs if the salary is substantially above the Civil Service rate. The alternatives are to make the post non-pensionable or to arrange for the individual concerned to continue membership of an existing superannuation scheme. In the former case the appointee is likely to want to take out a personal retirement annuity contract (to which he can contribute up to  $17\frac{1}{2}$  per cent of his salary tax free) and this may influence his salary expectations. In the latter the employing department will be expected to pay the employer's share of contributions to the pension scheme. The Treasury will advise on whether the contribution is reasonable.



12. If the candidate is in receipt of a pension from a public service scheme it may be subject to abatement. The candidate should be made aware of this.

Other special conditions

13. The assumption is that a special appointee will serve on normal Civil Service conditions unless otherwise specified and will on recruitment be subject to all the normal procedures such as the appropriate security and health checks. The Treasury and the Cabinet Office (MPO) as appropriate should invariably be consulted about any requests from individuals for special arrangements, eg for superannuation or other conditions of service. Departments should be alert to considerations of propriety (such as, for example, shareholdings or directorships) and should in particular ensure that applicants are aware that they will be subject to the Business Appointment rules when the appointment ends.

14. If a salary is enhanced because of special conditions (eg because it covers full superannuation costs) this fact should be brought out in any public announcement of the figure.

15. If the appointment is part-time (eg 4 days a week) this should be explicitly recognised and agreed at the outset and reflected in the pay package.

Other income

16. If present income is a factor in arriving at a negotiated salary,

all regular sources of earned income should be looked at to see whether any of these will continue during the appointment.

#### Pay review

17. Before terms of service are finally settled clear arrangements should be established for reviewing salary. It is usually best for the salary to move in proportion to and in time with the salary for some appropriate Civil Service grade.

#### Termination

18. The premature retirement terms of Section 10 of the PCSPS will not normally apply to period or fixed term appointments. Before an appointment is settled clear termination arrangements should be agreed, including the position of both parties in relation to possible early termination. The Treasury will advise on this. It may also be necessary to think about an extension clause. Departments are reminded of the need to include in all formal letters of appointment for periods of 2 years or more a clause requiring the appointee to forego his right of appeal against alleged unfair dismissal (see section 142 of the Employment Protection (Consolidation) Act 1978).

#### Secondments

19. Special secondments from established companies may be appropriate if there is no conflict of interests. Care should be taken to identify the amount (if any) by which the cost of a reimbursement package exceeds the normal public service rate, and the means by which the level of reimbursement will be reviewed.

20. Artificial arrangements designed to avoid tax, for example where a candidate uses a company formed in order to second himself, are not acceptable. Moreover the creation of a service company is not in itself an automatic means of avoiding tax. Where it appears at the time, or it subsequently emerges, that in reality the relationship is that of employer/employee the relevant income tax will be sought.

Staff of non-departmental public bodies

21. Broadly similar principles apply to appointments to non-departmental public bodies whose pay and conditions are subject to Government control. In particular the Treasury should be consulted on all proposals to go outside the scope of the body's existing pay model (whether or not it is a Civil Service model) and steps taken to see that the market is properly tested. All quantifiable elements in the remuneration package must be taken into account in any salary bargaining. Detailed guidance on such appointments is given in the Cabinet Office Guide to NDPBs.

Chairman and Board members of public bodies and other individual public appointments (eg office holders)

22. Guidance on appointment procedures is given in the Cabinet Office (MPO) Guide on Public Appointments Procedures.

23. In the non-commercial sector the existing salary ranges are constrained, broadly, by the same principles as apply to those covered by the Top Salaries Review Body. It follows that if any exceptional rates are proposed then evidence will be required that attempts to

recruit within the existing normal salary range have been unsuccessful and that the rate proposed is the minimum necessary to secure an acceptable candidate. Separate considerations are applied to commercial public bodies including the nationalised industries. Guidance is available to sponsor Departments from the Treasury.

Ministers' Special Advisers

24. The notes do not apply to the appointment of Ministers' Special Advisers, for which separate rules exist.