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End Ref
cc JV.
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10 DOWNING STREET

From the Private Secretary

13 May 1982

Dear Stephen,

WAGES COUNCILS AND THE ISSUE OF LOW PAY

The Prime Minister has seen your Secretary of State's recent minute, along with the recent correspondence on Wages Councils between the Chancellor of the Exchequer, the Secretary of State for Employment, the Minister of Agriculture, Fisheries and Food and the Attorney General.

The Prime Minister thinks that it would be useful to have discussion at E on these matters. I understand that it may be possible to hold such discussion towards the end of this month.

I am copying this letter to the Private Secretaries to other members of E, the Attorney General, the Secretary of State for Scotland, Sir Robert Armstrong and Mr. Sparrow.

Yours sincerely,

Michael Schuster

Stephen Boys-Smith, Esq.,
Northern Ireland Office.

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10 DOWNING STREET

(1)

Prime Minister

Wages Councils

The legal advice was against
us - that we would be in breach
of ILO 26 if we excluded
young people from the scope of the
Wages Councils. But there are other
issues to discuss - can we oblige
the Councils to take into account ability
to pay? Should we act in breach

PTU

of our obligations and defend
ourselves On the ground that we
are safeguarding employment?

These are for discussion at E
- perhaps at the end of this
month. That will also be the time
for discussion of Mr Prior's ideas. So
I don't think we need respond
substantively to his letter. Agree?

MCS 12/5

Yes

no

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JFF630

DEPARTMENT OF INDUSTRY
ASHDOWN HOUSE
123 VICTORIA STREET
LONDON SW1E 6RB

TELEPHONE DIRECT LINE 01-212 3301
SWITCHBOARD 01-212 7676

Secretary of State for Industry

11 May 1982

Rt Hon Norman Tebbit MP
Secretary of State for Employment
Department of Employment
Caxton House
Tothill Street
LONDON
SW1H 9NA

Dear Norman,

Thank you for sending me a copy of your letter of 29 March to Geoffrey Howe about the Wages Councils system. I have seen the subsequent correspondence.

2 It is a pity that international obligations so inhibit us before 1986. However, that should not preclude us from taking some action now, and I look forward to a collective discussion of the options that are open to us.

3 On the question of abolition of individual Councils I gather that since 1979 ACAS has not had referred to it a single proposal for abolition (as opposed to amalgamation). This is to be compared with the vigorous action taken on training, another area saddled with a tripartite body, where we asked the Manpower Services Commission to review all the Industrial Training Boards, and then after the necessary legislation took our own decisions in the light of the MSC's advice. I find it difficult to believe that the trades and industries covered by Wages Councils when we came into office happen to be those which this Government consider must have a Council under the criteria set out in the relevant ILO Convention - and the Convention does give us some discretion in deciding which trades 'need' minimum wage fixing machinery.

4 However, our enforced decision to retain the system for the moment would be easier to defend if we were seen to be examining seriously whether individual Councils were justified on their own terms - and giving interested parties an opportunity to express their views on the matter -



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regardless of the eventual outcome of that examination. Hence there is much to be said for selecting some Councils with a view to referring them to ACAS or straightaway publishing a draft Order for abolition. Certainly the two retail councils receive most criticism from employers but there may be others which merit the same scrutiny.

5 Action of this kind would in particular help us in the debate on any legislation which we introduced in the House (and I agree that a declaratory obligation on Councils might be useful). Indeed if we are to introduce legislation there may be a case for including a provision which curtailed the present long winded procedure for abolishing a Council, for example by removing the need to seek the advice of ACAS in certain circumstances or giving us more freedom of action following that advice. Such a provision would give some reassurance to our supporters and might facilitate the abolition of individual Councils. More importantly perhaps it would clear the way for more radical action in 1986.

6 I agree with you that we must continue to do what we can to improve the field of choice for independent members on the Councils who have the casting vote on the size of awards. I hope that in particular you could appoint some people who have had first hand experience of the problems of small firms.

7 Progress so far has been disappointing. The list of independent members set out in Michael Alison's Answer to Richard Alexander's Question of 19 February make depressing reading. The fact that all but three of the 81 posts are filled by barristers, educationalists or ex-officials cannot help to convince our supporters that we are serious in our declared intention of introducing practical men of experience. On the face of it only one independent seems to have any substantial experience of industrial management (in a multi-national oil company!).

As 25 or so appointments expire each year this imbalance is something into which we can quickly make inroads if we are determined to do so. But we will only be successful if we drop the practice of normally reappointing people whose appointments expire. Experience and continuity are all very well, but do we need to take it to the extent of having over half of the present independent members with 10 years



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experience plus on the Councils, ie are well into at least their second reappointment? Reappointment should not be taken for granted even in normal times let alone when the balance is so wrong.

9 I am sending copies of this letter to the other recipients of yours.

You are
Patel

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cc Mr. Vereker
Mr. Smith

MR. SCHOLAR

WAGES COUNCILS

*We must respond
to the thought of the
Prime Minister
and we are
opposed to
it.*

*If you agree, I suggest we do not respond
to Mr Prior's minute (attached)?*

1. The memorandum of the Secretary of State for Northern Ireland suggests that further steps on Wages Councils should be brought again to be discussed in E Committee. I doubt very much whether this would be at all useful. MUS 10/5
2. During the last meeting of E Committee on Wages Councils the general view was that they should be abolished. The difficulties in the way were thought to be legal constraints in the form of the ILO Convention. Various suggestions were made, such as eliminating the young from the ambit of Wages Councils, in order to avoid the alleged conflict with the Convention.
3. As we suggested long ago, however, the legal constraints were in the minds of officials rather than in the letter of the Convention. This has been confirmed by legal advice. The only constraint now is the Government's degree of resolution.
4. All the issues raised by the Secretary of State for Northern Ireland have been raised before, discussed and resolved. The essence is as follows: if Wage Councils are effective they are harmful, if ineffective otiose.

ALAN WALTERS

6 May 1982

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Prime Minister (2) G
Mus 5/5

Prime Minister

MS

WAGES COUNCILS AND THE ISSUE OF LOW PAY

I have seen your comments in your Private Secretary's letter of 1 and 8 April, along with the recent correspondence on Wages Councils between the Chancellor, the Secretary of State for Employment, the Minister of Agriculture, Fisheries & Food and the Attorney General. I am sending this minute to you rather than responding directly to Norman as I am concerned about the possible ramifications of our approach on Wages Councils on the wider issue of low pay.

2. On the suggestion that we try to abolish the two retail wages councils, I agree with Peter Walker that while employers would undoubtedly welcome such a move and abolition would make some contribution, however modest, on employment and prices, there would nonetheless be real difficulties for the reasons he sets out.

3. I would also foresee considerable practical difficulties in trying to impose statutory obligations on Wages Councils to take account of capacity to pay and implications for jobs. I am not convinced that the various exclusions ie for small firms and young persons, and qualifications being proposed, all of which require legislation, would meet with sufficient approval in Parliament or the industries concerned, to make them worth pursuing.

4. More generally, I feel that we should bear in mind that the low pay issue is difficult, particularly for a Conservative Government. In recent weeks there have been signs that the "low pay" lobby would be ready to campaign on the Wages Council issue and that the issue of low pay generally is one which can

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attract close attention from the media. Our statements on Wages Councils, our message on pay generally, and the controversy on the proposed level of the allowance for the New Training Initiative from September 1983 are in danger of becoming confused and consequently, I fear, misconstrued and misrepresented. We also need to bear in mind the criticism we have faced on the proposed level of allowance for young people on the New Training Initiative: even the CBI have been prepared to countenance a higher weekly allowance rather than the sum of £15 which we had considered.

5. I think we also need to consider whether by attacking and seeking to abolish some Wage Councils we shall be providing a fresh impetus to those lobbying for more effective methods for enforcing minimum wage rates.

6. My worry is that we may be in danger of trying to push too far too fast on too many areas in our enthusiasm to enable people, particularly the young, to be "priced back into work". Therefore, before taking any further steps on Wages Councils, both the practical problems involved and also the more general political issues at stake could usefully be discussed in E Committee.

I am copying this minute to other members of E Committee, the Attorney General, the Secretary of State for Scotland and Sir Robert Armstrong.

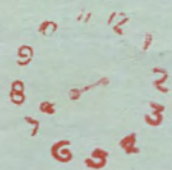
A handwritten signature in dark ink, appearing to be the initials "JP" with a stylized flourish.

J P

April 1982

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5 MAY 1982





01-405 7641 Extn 3201

Prime Minister (4) *Lord Pol*
pus 29/4
ROYAL COURTS OF JUSTICE
LONDON, WC2A 2LL

28 April 1982

Rt Hon Norman Tebbit MP
Secretary of State for Employment
Caxton House
Tothill Street SW1

MT

Dear Norman.

WAGES COUNCILS

You copied to me your letter of 29 March to Geoffrey Howe inviting my comments on the proposal to amend the Wages Councils Act 1979 so as to place a statutory obligation on wages councils, in setting rates, to take account of capacity to pay and of the implications for jobs. I have also seen his reply of 8 April and Peter Walker's comments of 19 April.

pt 1 attached

In principle, it is possible to legislate along the lines of your proposal. I certainly agree that it should not cause difficulties in relation to our adherence to IL Convention 26. However, there are a number of practical difficulties and we would need to have in mind more clearly what we intended to achieve. An obligation merely to "take account of" or "have regard to" specified factors of the nature you outline would in practice hardly render a wages council's award susceptible to successful challenge in the Courts and to that extent may not lead to any changes in the Councils' practices. I say this because I think it unlikely that the issues would ever be so clear-cut that it would be possible after the event for an affected employer to prove that a wages council had totally ignored employment effects. On the other hand,

/a more



01-405 7641 Extn

ROYAL COURTS OF JUSTICE
LONDON, WC2A 2LL

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a more substantial statutory duty such that no increase is to be awarded unless the Council were satisfied as to certain matters may lead too readily to the possibility of legal challenge. A successful challenge would invalidate the particular Wages Councils Order giving effect to the award, yet in the meantime wages will have been paid at the rate prescribed in the Order. A further consideration is that the factors you have in mind are necessarily in legal terms imprecise; capacity to pay is variable depending upon the circumstances of the many different undertakings subject to an Order and the implications for jobs cannot readily form the subject of a judicial decision in advance of actual demonstrable effect (yet it would be to that time to which the Court's attention would have to be directed).

Accordingly, I suggest that it would be necessary for our officials to work up something more concrete before 'E' can take any decision on whether to proceed with this line of approach. I am copying this letter to the Prime Minister and other recipients of yours.

Yours etc
Michael



MINISTRY OF AGRICULTURE, FISHERIES AND FOOD
WHITEHALL PLACE, LONDON SW1A 2HH

SV 5

Prime Minister

(2)

From the Minister

The Rt Hon Norman Tebbit MP
Secretary of State for Employment
Department of Employment
Caxton House
Tothill Street
London SW1N 9NA

MUS 20/4

Handwritten signature

19 April 1982

Handwritten signature

WAGES COUNCILS

Thank you for sending me a copy of your letter of 29 March to Geoffrey Howe. ^{- PM}

As sponsor to the food and drink industry, including retail food distribution, I have an interest in your suggestion of approaching leading employers and employers' organisations in retailing to explore the idea of abolishing the Retail Wages Councils. I have no doubt that such a proposal would be welcomed by the employers' organisations. Both the major multiples and the independent grocers were incensed at the large award recently proposed by the Retail Food and Allied Trades Council (which has since been slightly reduced as a result of employers' protestations). There were real fears that this will lead to closures, and hence unemployment, among the smaller grocers and to a smaller increase in employment by the major multiples than would otherwise have occurred. I have little doubt that the abolition of the retail councils would make some contribution, however modest, to maintaining employment and keeping down prices.

From that point of view I am sympathetic to the suggestion, but I am bound to say that I do see real difficulty in abolishing these Councils. The retail trade is very much the type of sector for which wage councils were originally established. The retail trade, including the food sector, is still widely regarded as relatively low paid and average earnings remain well below those in other sectors. Moreover, in the retail food and allied trades, infringements of wage council orders in 1981 affected 26% of the workforce inspected, a higher level than in any other sector. In the light of these factors it would be difficult to argue convincingly that these councils are not necessary for the maintenance of reasonable standards of pay in retailing or that their abolition would not increase the risk of exploitation.

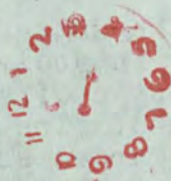
/I have some ...

I have some sympathy with your alternative suggestion of imposing a statutory obligation on Wages Councils, in setting rates, to take account of capacity to pay and of the implications for jobs, in the hope that this might have some influence on those councils which do not at present take these factors into account. But I fear that the marginal benefit this might bring would be heavily outweighed by the risk of complaints and litigation for non-fulfilment to which it would give rise, as you yourself so rightly point out. Moreover, the criterion of ability to pay seems particularly difficult to apply in the retail sector with some 230,000 widely differing businesses, of which around 200,000 comprise single outlets only.

If you wish to pursue these ideas further, by all means let us discuss them in E Committee. But I would not, in any event, wish to take any action which could impinge directly or indirectly on the independent tradition of the Agricultural Wages Boards, which have been operating very satisfactorily.

I am copying this letter to the Prime Minister and other members of E Committee, to the Attorney General and the Secretary of State for Scotland and to Sir Robert Armstrong.

19 APR 1982



PETER WALKER



End P.1
of SV
Prime Minister (2)

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

MUS 8/4

8 April 1982

The Rt. Hon. Norman Tebbit, M.P.,
Secretary of State for Employment

In Name

WAGE COUNCILS

Thank you for your letter of 29 March. I have also seen the Prime Minister's comment in Mr. Scholar's letter of 1 April, and your Private Secretary's reply of 5 April.

I would welcome a further discussion in E Committee of the options on Wages Councils (which I hope would also cover the Agricultural Wages Boards). This would provide a first opportunity to assess the balance of advantage in respect of moving to abolish the two retail wages councils, and we could also reconsider the case for wider and more radical action. We could then begin sounding out employers, as you suggest.

A statutory obligation on wages councils to take account of capacity to pay, and of the implications of pay awards for jobs, would also be well worth considering. I suggested in my minute of 18 January that we might go further and institute a right of appeal to the Secretary of State on the grounds that employment would be adversely affected by particular wages council decisions. But, subject to the views of the Attorney General, your proposal would seem likely to offer at least some possibility of legal redress where wages councils ignore employment effects.

I also agree that it would have a useful declaratory effect. The advantages of this might extend beyond the wages council area, and it would be no bad thing if Parliamentary debate on the necessary legislative amendment were to focus on the crucial link between pay restraint and jobs. In this connection I very much endorse what you say about the need for emphasis in our public statements on the need for pay restraint. This is an area in which other colleagues can make a very valuable contribution.

I am copying this letter to the Prime Minister and other members of E Committee, to the Attorney General and the Secretary of State for Scotland and to Sir Robert Armstrong.

8 APR 1982

