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Andrew Turnbull Esq
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21st March 1985

Dear Andrew,

WAGES COUNCILS - CONSULTATIVE PAPER

... I attach a final copy of the Paper which my Secretary of State is to publish today. The Paper incorporates most of the suggestions which other Ministers made in response to the draft circulated last week.

I am sending copies of this to Private Secretaries of other members of E(A), the Home Secretary, the Foreign Secretary, the Paymaster General and Sir Robert Armstrong.

Yours sincerely,
Iain Mackinnon

IAIN MACKINNON
Private Secretary

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CONSULTATIVE PAPER ON WAGES COUNCILS

1. The Government attaches the highest priority to removing unnecessary obstacles to the creation of more jobs. Wages councils have been increasingly criticized as such an obstacle and the Government therefore believes that it is now right to consider whether the system should be retained and, if so, what reforms are needed. The purpose of this consultative paper is to set out the options and to invite comments on them.

Background

2. Wages councils were first established in the very different circumstances of the early years of this century. They were originally conceived as a means of combating the problems of 'sweated labour' in particular trades where conditions involving excessively long hours and very low pay had given rise to serious public concern. The first trade boards were established between 1909 and 1914 with powers to set legally enforceable minimum rates of pay in certain industries. Under subsequent legislation (now consolidated in the Wages Councils Act 1979) the system expanded, and by 1953 had reached its peak with a total of 66 wages councils covering about 3.5m workers. Since then the system has contracted as many, mainly smaller, councils have been wound up or amalgamated. These and other changes are described in the annex to this paper.

3. Economic and social circumstances have, of course, changed dramatically since 1909. Today average real pay is much higher and average hours worked are much lower (indeed one of the most significant changes is that a majority of those covered by wages councils today work part time); there is extensive legislation to protect the rights of individual employees; and social security benefits and welfare provision have been greatly improved. In recent years there has been increasing controversy about the continued relevance of the remaining wages councils.

Wages councils today

4. There are at present 26 wages councils in Great Britain, covering about 2.75m workers primarily in service industries such as retailing, catering and hairdressing. Employment in the wages councils sector is not typical of employment in the economy as a whole. About two-thirds of the wages council labour force works part-time (compared with about one-fifth in the economy generally) and four-fifths of wages council workers are female. About 5 per cent of the wages council work force are full time employees under the age of 18; this represents about 20 per cent of all young people in employment.

5. The councils consist of equal numbers of employer and worker representatives, under independent chairmanship. Ministers have no power to intervene in their decisions. The councils set legally enforceable minimum rates of pay and holidays, published in the form of wages orders, in sectors where collective bargaining arrangements are limited. Most minimum full time rates (March 1985) for adults range from approximately £63 to £72 per week.

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6. Enforcement of the orders issued by councils is a matter for the Wages Inspectorate. Compliance with the orders is generally high. Fuller details of the wages council system in Great Britain are given in the annex.

The main issues

7. Wages councils interfere with the freedom of employers to offer, and job-seekers to accept, jobs at wages that would otherwise be acceptable. This restricts job opportunities, particularly for young people. Some employers argue that the councils no longer see their purpose as providing a basic wage floor for vulnerable individuals but rather as setting 'going rates' for large groups of employees regardless of particular circumstances. In addition to statutory minimum rates they impose a proliferation of requirements concerning holidays and other conditions of work that are difficult for both employers and employees to understand, unnecessarily burdensome, and detrimental to flexibility and efficiency. The case for change is clear.

Impact on employment

8. A number of studies support the view that statutory minimum rates jeopardise employment. Since 1974, increasing numbers of wages council employees have come to be paid the statutory minima. Around 1m of the 2.7m workers in scope of the councils are now paid little or no more than the relevant statutory minimum rate. This suggests that those rates are now higher than would be necessary to recruit and retain workers, with repercussions which may extend through the whole structure of earnings.

9. Once the statutory minima set by wages councils begin to affect the pay levels of many people, not just a minority of individuals, the implications for employment cannot be ignored. There is a substantial body of analytical work which demonstrates the link between pay and jobs. The recent Treasury paper 'The relationship between employment and wages' fully surveys the available evidence on this and concludes that slower rises in real pay would lead to significant increases in job opportunities.

10. The effects of regulations which maintain pay at levels above those at which employers are willing to offer jobs, and for which prospective employees may be willing to work, are particularly obvious in the case of young people. In relation to adult workers, young people in wages councils trades enjoy a relatively high level of pay. Broadly, 16-year olds are entitled to about 65 per cent of adult minima and 17-year olds to about 75 per cent. These percentages are generally higher than those applicable to other groups of young workers covered by voluntary agreements elsewhere in the private sector.

11. There is a growing body of evidence that the employment prospects of young people are adversely affected by the level of their wages relative to adults. Pricing young people into jobs is especially important in wages councils trades, which have

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CONSULTATIVE PAPER ON WAGES COUNCILS

This paper sets out options for the future of wages councils and seeks comments on the issues raised by 31 May 1985. These should be made in writing to:

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traditionally offered a disproportionately large percentage of the openings for young people in the 16-17 age group; at present about one in every five young people in employment work in these trades. Many of the opportunities in the retailing and catering trades are especially suitable for those trying to enter and establish themselves in the labour market for the first time. There can be no case for the legal prescription of pay rates which have the effect of making it difficult for those who wish to take up employment to do so.

The burdens on employers

12. Apart from the concern about the effects of wages councils on employment opportunities they also impose considerable administrative burdens on employers and inhibit their flexibility in meeting changing market needs. Councils have had unlimited freedom to regulate every detail of pay, holiday and other conditions. The outcome is a set of wages orders from the 26 councils which typically are very complex. Amongst the main complaints are:

- the wages orders sometimes run to 30 pages in length and apply to many different grades or categories of worker;
- their provisions are frequently difficult for both employers and employees to understand, with the result that many of the underpayments which occur arise from misinterpretation rather than from wilful disregard of legal requirements;
- the rigidities of the orders inhibit employers in the development of sensible wage structures and systems of remuneration more appropriate to their businesses;
- the law permits the issue of orders with retrospective application which can cause real problems, particularly for smaller employers who can be faced with increased expenditure which they had not foreseen.

All these burdens can inhibit the growth of small businesses in the wages council trades and thus damage employment.

Options for action : abolition or reform

13. The Government believes that there are only two options for action: abolition of the whole system, or major reform of the powers and functions of the councils.

14. There is a substantial body of opinion, including many employers, which believes that total deregulation could be harmful and that reform is to be preferred to abolition. They point out that industrial relations have generally been good in wages councils industries and that many small companies have benefited from being able to conduct their wage negotiations as a group. They fear that total abolition might lead to uncertainty and instability on wages and conditions, and a consequent deterioration in industrial relations. They therefore believe that the system should be reformed rather than abolished.

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15. Strong arguments have been advanced for abolition. Pay is best settled between employers and employees in the light of their particular circumstances. Deregulation is desirable in principle. The present system is inflexible and lacks relevance to today's needs. The cost of administering it is over £4m. The bureaucratic burdens it imposes fall most heavily on the smaller enterprises which characterise the wages council trades (two-thirds of establishments within their scope employ fewer than 10 workers). The principal argument put forward by those who favour abolition is that the wages councils system is a serious source of inflexibility in the labour market, damaging job prospects and working against the interests of the unemployed.

16. If the system is to be kept in some form, it would be imperative to tackle its damaging effect on youth employment. The simplest solution would be to remove young people entirely from the scope of the councils, restricting their role to setting minimum rates for adults. There is no obvious case for insisting on a minimum level of pay for young people seeking to enter the labour market for the first time.

17. A possible alternative to the complete exclusion of young people would be to put an upper limit on the rates which the councils can set for them. This might be done by taking powers to prevent any council from setting minima for young people which exceeded a given percentage (or percentages) of the rates which they set for adults. Such limits would apply to all councils, but as each council would determine the level of adult minima the absolute sums payable would of course vary.

18. The point at which adult rates might commence would also need to be decided. Although most councils commence adult rates at 18, and two of the largest at 19, the threshold need not necessarily be at either of those points and could indeed be higher. In Holland, for example, the full adult minimum rate is not reached until age 23.

19. Reforming legislation might also include steps to reduce the inflexibilities and burdens on businesses inherent in detailed statutory prescription of terms and conditions. There could be a much tighter definition of the function of the wages councils. Councils might be empowered to set only a single minimum hourly rate for adult workers, possibly coupled with a lower rate or rates for young people as discussed earlier. Provisions of some kind would continue to be appropriate for piece workers and home-workers. The effect of such simplification would significantly reduce the problems associated with wages orders. Councils would no longer be able to impose detailed minimum overtime and other premium payments, prescribe holidays and holiday pay, require pay guarantees of various kinds, or deal with other conditions.

20. Reforms of the kind outlined in paragraphs 16-19 would remove many of the detailed inflexibilities of the system and greatly reduce the bureaucratic burdens on employers, and above all help to promote job opportunities particularly for young people. But compared with the abolition option they are unlikely to have as much effect on the overall level of employment and risk maintaining artificially high rates of pay for adults, damaging to employment.

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The United Kingdom's international obligations

21. The Government's over-riding concern is to maximize employment opportunities; and in this field flexibility and freedom of action are essential. For this reason, it is necessary to consider deratifying International Labour Convention No 26.

22. International Labour Organization (ILO) Convention No 26 requires those countries which ratify it to create or maintain minimum wage fixing machinery. The Wages Councils Act 1979 is the means by which the Government satisfies the requirements of the Convention. The Convention itself contains provision for deratification; this can be considered at 5 yearly intervals and it is necessary to give 12 months notice and to consult representatives of employers and trade unions. The next such period runs from June 1985 to June 1986. Obligations cease 12 months after notification of deratification.

23. The Government would deratify the Convention only after full consultation. Nonetheless the Convention as drafted lacks flexibility and therefore limits the Government's freedom of action in an area of vital public concern. Subject to the outcome of consultations in conformity with ILO rules, the Government proposes to deratify the Convention and thus regain freedom of action in this important field.

Conclusion

24. The Government would welcome views on the options outlined in this paper for the wages council system in Great Britain.

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ANNEX

THE WAGES COUNCILS SYSTEM

Legislative history

1. The origins of wages councils lie in the Trade Boards Act of 1909.
2. The intention of the 1909 legislation was to provide for the regulation of pay to prevent 'sweating' which a House of Commons Select Committee had earlier defined as 'a rate of wages inadequate to the necessities of the workers or disproportionate to the work done, excessive hours of labour and the insanitary state of the houses in which the work is carried on'. The boards had power to fix only minimum time rates and piece work rates. A subsequent Trade Boards Act passed in 1918 gave the boards power to fix fall-back rates for piece-workers, overtime rates, and the point at which over-time became payable. The Holidays with Pay Act 1938 further extended their impact by enabling them to require up to one week's holiday with pay.
3. In 1938 and 1943 two new Acts were introduced to provide for minimum pay and holidays in the road haulage and catering industries in addition to those covered by the existing trade boards.
4. Another substantial extension of the powers of the boards took place in 1945 with the introduction of the Wages Councils Act. Apart from the change of title, the councils were given the power to deal with all aspects of pay and holidays. They were no longer limited to a period of one week in fixing holidays with pay. The road haulage board was absorbed into the wages councils system in 1948, and the catering boards in 1959.
5. The Wages Councils Act 1959 was a consolidating measure and the next major change did not come until 1975 when the Employment Protection Act amended the wages councils legislation to enable the councils to fix, in addition to minimum pay and holidays, 'any other terms and conditions (of employment)'. The 1975 Act also gave the Secretary of State the power to convert wages councils to Statutory Joint Industrial Councils (SJICs). These were to have powers similar to wages councils, but were to operate without independent members, the intention being that they should provide a stepping-stone on the way to the development of voluntary collective bargaining machinery. No SJICs have been established; and no wages council has so far used its power to fix 'any other terms and conditions (of employment)'.
6. The 1979 Wages Councils Act under which the system now operates was a further consolidating measure, incorporating the amendments made by the 1975 Employment Protection Act.

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Growth and contraction

7. Over the last 75 years there have been substantial changes both in the numbers of councils and in the industries covered.

8. The system grew rapidly at the outset and by 1921 there were 42 trade boards covering about 3 million workers mainly in manufacturing industry. The next major expansion occurred between 1931 and 1940 with the addition of 8 boards, including those covering the baking, cutlery, furniture manufacturing and road haulage industries (the last, as already noted, under separate legislation). The final major expansion occurred between 1940 and 1948 with the addition of the service industries covering catering (again, under separate legislation), retailing and hairdressing.

9. A peak of 66 councils, embracing 3.5 million workers, was reached in 1953. Numbers have subsequently declined through abolitions and mergers to the present level of 26 councils covering about 2.75 million workers. The most recent contractions of the system have been brought about largely by mergers, though 16 councils have been abolished since 1969. A full list of changes is appended at A.

Wages Councils in 1985

10. The councils which exist today are listed at B. Nearly 400,000 establishments and about 260,000 employers are affected by their operation. In contrast to the emphasis on manufacturing and industrial processes when the system began, about 86 per cent of all workers are now in the service trades of retailing and catering (over 1 million in each) and hairdressing. Of the 14 per cent in industry, about two-thirds are in clothing manufacture.

11. Estimates suggest that up to two-thirds of the workers are employed on a part-time basis, and that about four-fifths of the total are female. Overall, the wages councils system establishes minimum rates for about 11 per cent of the employed labour force.

Methods of operation

12. Wages councils today, like their predecessors the trade boards, have two 'sides' normally appointed by employers' associations and unions and three 'independent' members appointed by the Secretary of State. The Secretary of State nominates the employers' associations and unions. The aim is that all interests in the particular trade should have a voice in the proceedings and seats are not allocated simply according to the size of the organisation. The task of the independent members is primarily to mediate and bring the sides to agreement, but when this proves impossible they exercise a casting vote. Ministers have no powers to veto or amend wages councils' decisions.

13. Councils are required to send copies of their proposals for changes in minimum rates to all employers who are known to be affected by them. These 'proposal notices' must be displayed where workers can see them, and there must be an opportunity for both workers and employers to make representations against them before the new 'wages orders' become law.

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Enforcement

14. Enforcement of wages council orders is the responsibility not of the councils but of the Department of Employment's Wages Inspectorate, which is organised in 15 geographical divisions throughout the country.

15. The Inspectorate aims to check the pay of workers at 40,000 (one-tenth) of the establishments on its register each year. These checks include the investigation of all complaints. About two thirds of the checks involve inspection visits. The remainder are conducted by the other methods described below:

- where a firm has a formal pay agreement, it is checked to ensure that its provisions are at least as favourable as those in the wages order. Where they are, and there is a satisfactory procedure for dealing with worker's pay grievances, compliance is assumed throughout the firm and no examination of pay records is carried out.
- in the case of multiple firms which have five or more branches and which keep their pay records centrally, the head office is visited to examine the records and a sample of the branches is selected for confirmation visits. Where the results are satisfactory the other branches are not visited and compliance is assumed throughout the firm.
- for smaller firms in the retail and hairdressing trades an initial check is normally made by postal questionnaire. Where the reply shows that no workers are being underpaid, no visit is made. However a sample of about 1 in 20 is selected for a visit to check the general validity of the postal enquiry method. Of the replies verified in this way, 95 per cent of the employers are found to be complying. If the reply indicates that there might be an underpayment, or if no reply is received, an inspection visit is carried out.

Compliance

16. The above methods of checking were evolved to reduce the number of unnecessary visits and to enable inspectors to devote more of their time to visiting firms where underpayments are more likely to be found. As a result, the proportion of establishments visited which are found to be underpaying is relatively high. The following are the figures for recent years:

	<u>Establishments visited</u>	<u>Establishments underpaying</u>	<u>%</u>
1981	24,399	10,074	42.0
1982	23,272	9,269	39.8
1983	26,332	9,842	37.4
1984 (provisional)	26,545	9,461	35.6

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These figures cannot be taken as an indication of the overall level of compliance, not only because visited establishments are not typical, but also because where establishments are found to have underpaid, only one or two workers are normally involved. The proportion of workers found to be underpaid in all checks carried out by the Inspectorate therefore provides a more reliable indicator. Of the workers covered by checks by visit and other methods during the past three years, only about 6 per cent were found to be underpaid. In the experience of the Inspectorate over a half of these underpayments result from the employer not understanding, or incorrectly applying, the provisions of the wages order.

17. Where underpayments are found, inspectors assess the amount of arrears due. The figures for recent years are as follows:

	<u>Workers underpaid</u>	<u>Arrears assessed</u>
1981	25,482	£2,301,910
1982	20,406	£2,286,893
1983	20,832	£2,416,353
1984 (provisional)	18,043	£2,428,991

18. Priority is given to workers' complaints. About 10,000 are received each year, a quarter of which are satisfactorily cleared without any need to visit the employer. Underpayments are found in 70 per cent of the inspections arising from complaints. Over a third of these involve entitlement to accrued holiday pay on leaving employment.

Enforcement Policy

19. It has always been the Inspectorate's policy to secure compliance by advice and persuasion and the great majority of employers respond to this approach. The Inspectorate has powers to prosecute offending employers but such action is taken only when the offence is deliberate or repeated and the evidence adequate. Numbers of prosecutions have rarely exceeded single figures in any year. Advisory work on the other hand occupies a significant proportion of the Inspectorate's time.

Staffing and cost of the system

20. Total expenditure on the wages councils system amounts to approximately £4.2m per annum. It employs 247 staff of whom 224 (including 120 'on the road' inspectors) are in the Wages Inspectorate which costs £3.1m. The remainder of the staff and expenditure is accounted for by HQ executive and policy functions and support services for the wages councils, including the cost of printing and distributing wages proposals and orders.

WAGES COUNCIL/TRADE BOARD	ESTABLISHED	ABOLISHED
Tailoring (GB)	1910	1920 ¹
Retail Bespoke Tailoring (GB)	1919	1924 ²
Furniture Manufacturing (GB)	1940	1947
Tobacco (GB)	1919	1953
Rubber Reclamation (GB)	1938	1955
Chain (GB)	1909	1956
Rubber Manufacturing (GB)	1938	1958
Drift Nets Mending (GB)	1919	1960
Fustian Cutting (GB)	1933	1960
Tin Box (GB)	1914	1960 ³
Hat, Cap and Millinery (England & Wales)	1919	1963 ³
Hat, Cap and Millinery (Scotland)	1920	1963 ³
Baking (Scotland)	1938	1963
Sugar Confectionery and Food Preserving (GB)	1913	1963
Cutlery (GB)	1933	1969
Jute (GB)	1919	1969
Paper Bag (GB)	1919	1969
Baking (England & Wales)	1938	1971
Boot & Floor Polish (GB)	1921	1974
Brush & Broom (GB)	1919	1974
Hair, Bass and Fibre (GB)	1920	1974
Stamped or Pressed Metal-wares (GB)	1914	1975
Keg & Drum (GB)	1928	1975
Paper Box (GB)	1910	1975
Milk Distributive (England and Wales)	1920	1975
Hollow-ware (GB)	1914	1975
Industrial & Staff Canteen Undertakings (GB)	1944	1976
Milk Distributive (Scotland)	1920	1976 ³
Retail Bespoke Tailoring (England & Wales)	1924	1977 ³
Retail Bespoke Tailoring (Scotland)	1924	1977 ³
Road Haulage (GB)	1939	1978
Retail Bread & Flour Confectionery (England & Wales)	1953	1979 ⁴
Retail Bread & Flour Confectionery (Scotland)	1953	1979 ⁴
Retail Food Trades (England & Wales)	1947	1979 ⁴
Retail Food Trades (Scotland)	1948	1979 ⁴
Retail Newsagency, Tobacco & Confectionery (England & Wales)	1947	1979 ⁴
Retail Newsagency, Tobacco & Confectionery (Scotland)	1947	1979 ⁴
Retail Bookselling & Stationery Trades (GB)	1947	1979 ⁵
Retail Drapery, Outfitting & Footwear Trades (GB)	1948	1979 ⁵
Retail Furniture & Allied Trades (GB)	1948	1979 ⁵
Pin, Hook & Eye, and Snap Fastener (GB)	1920	1980 ⁶
Corset	1919	1981 ⁶
Dressmaking & Women's Light Clothing (England & Wales)	1919	1981 ⁶
Dressmaking & Women's Light Clothing (Scotland)	1920	1981 ⁶
Ready-Made & Wholesale Bespoke Tailoring (GB)	1920	1981 ⁶

WAGES COUNCIL/TRADE BOARD

ESTABLISHED ABOLISHED

WAGES COUNCIL/TRADE BOARD	ESTABLISHED	ABOLISHED
Rubber Proofed Garment Making Industry (GB)	1956	1981 ⁶
Shirtmaking (GB)	1913	1981 ⁶
Wholesale Mantle & Costume (GB)	1919	1981 ⁶
Aerated Waters (England & Wales)	1920	1983 ³
Aerated Waters (Scotland)	1920	1983 ³
Unlicensed Residential Establishments (GB)	1945	DEFUNCT ⁷

NOTES

1. Became Ready-Made & Wholesale Bespoke Tailoring
2. Council split into Retail Bespoke Tailoring; England & Wales; Scotland
3. Councils for England & Wales, and Scotland amalgamated into one for Great Britain
4. Councils amalgamated to form Retail Food & Allied Trades (GB)
5. Councils amalgamated to form Retail Trades (Non-Food) (GB)
6. Councils amalgamated to form Clothing Manufacturing (GB)
7. Council never functioned.

COVERAGE OF WAGES COUNCILS

Council	Estimated No of workers covered (1982)	No of establishments listed (1984)
Licensed Residential		
Establishment and Licensed Restaurant	555,300	30,192
Retail Food and Allied Trades	519,300	118,351
Retail Trades (Non-Food)	512,800	102,594
Licensed Non-residential	508,700	67,498
Clothing Manufacturing	252,800	8,292
Hairdressing Undertakings	135,600	33,344
Unlicensed Place of		
Refreshment	116,400	17,116
Laundry	33,700	1,110
General Waste Materials		
Reclamation	19,300	1,949
Toy Manufacturing	18,900	389
Aerated Waters	15,000	630
Boot and Shoe Repairing	7,100	2,372
Hat, Cap and Millinery	6,800	189
Linen and Cotton Handkerchief & Household Goods & Linen Piece Goods	5,200	203
Retail Bespoke Tailoring	5,200	757
Made-up Textiles	4,800	340
Fur	4,500	484
Rope Twine and Net	4,000	117
Button Manufacturing	2,100	62
Perambulator and Invalid Carriage	1,500	36
Flax and Hemp	1,400	13
Ostrich and Fancy Feather & Artificial Flower	1,400	32
Sack and Bag	1,400	108
Lace Finishing	800	66
Cotton Waste Reclamation	500	34
Coffin Furniture and Cerement Making	300	20
TOTALS	2,734,800	386,298