



FROM: CHIEF SECRETARY  
DATE: 27 March 1985

PRIME MINISTER

**ASSASSINATION AND DEATH IN SERVICE**

In commenting on the level of death benefits and compensation available to the dependants of Mr Kenneth Whitty last year, you expressed some reservations about the adequacy of the existing arrangements and asked that they should be reviewed. Officials in the Treasury and FCO have carried out a review. I attach a copy of their report.

2 The report concludes (paragraph 19) that the existing arrangements are not ungenerous. However, it recommends two modest improvements - a doubling to six months of the period of transitional pension (about which you were unhappy) and of the basis for the injury benefit lump sum. Janet Young and I agree these improvements should be implemented.

3 The report discusses three further options if we wish to make the arrangements more generous. The first is an extension of the injury benefit lump sum basis to 12 months rather than 6. The other two entail the concept, novel in these matters, of public outrage: an additional compensation lump sum of one year's pensionable pay in cases of death or injury in public outrages like those which befell Mr Whitty and Mr Norris; and, in the case of death in these circumstances an increase in the guaranteed minimum income for the widow from 45 per cent to 50 per cent of pensionable pay.

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4 Janet Young favours implementation of all these options. I have reservations.

5 The purpose of these arrangements, whatever the cause of death is to provide for the needs of dependants. Quadrupling the Section 11 lump sum payment to 12 months pay would in my view lead to considerable pressure from the civil service unions for more generous treatment for ordinary widows. The improvement would also have to be carried through to other public service schemes and there would be pressure from members of those schemes for similar benefits in non-attributable cases. I think an increase from 3 to 6 months pay is the most we should contemplate.

6 My reservations about a special lump sum payment in cases of public outrage are less strong. The number of cases covered by it should be relatively small providing we define "outrage" clearly to prevent unwarranted pressures for extension - I would suggest political assassination and terrorist activity only. Public opinion would probably favour such special treatment.

7 The report describes in paragraph 11 the arrangements for police and firemen which already incorporate a five year lump sum payment where death results from duty. These arrangements were created against the government's wishes by local authorities. Patrick Jenkin hopes to legislate in the forthcoming session to remove the local authority powers under which the concession was made in order to prevent repetition - other public servants are casting envious eyes on it. I do not regard the arrangements for police and firemen as a happy precedent to follow.

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8 Whether or not we adopt a special lump sum in outrage cases, I do not think we should implement the minimum income of 50 per cent of pensionable pay for widows. While a lump sum in outrage cases may be reasonable, I do not think there is a respectable case for improving a widow's pension to take account of the circumstances of death rather than the needs of the widow. A concession here will inevitably lead to pressure for better treatment for ordinary widows elsewhere in the public services and from war widows.

9 To summarise:

- (a) I think that we can accept the two recommendations in the report (to increase the transitional pension and the Section 11 lump sum to six months).
- (b) If colleagues with responsibility for other public service schemes are willing, I would not object to the introduction of a special lump sum payment of one year's pay in outrage cases.
- (c) I do not think we should go beyond increasing the Section 11 lump sum to six months.
- (d) I do not think we should increase the guaranteed minimum income of widows in outrage cases to 50 per cent of pensionable pay.

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11 I have written to you separately about the further calculations we have been doing in the case of Mrs Whitty.

12 I am copying this minute to Quintin Hailsham, Geoffrey Howe, Leon Brittan, Michael Heseltine, Keith Joseph, George Younger, Patrick Jenkin, Norman Fowler and to Sir Robert Armstrong.



PETER REES

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## ASSASSINATION AND DEATH IN SERVICE

### Background

The Principal Civil Service Pension Scheme (PCSPS) provides death and injury benefits for its members killed or injured in the course of duty in addition to those available to members who die in service from natural causes or other causes not attributable to their duties. In addition members of the PCSPS injured or killed in the UK may be eligible for compensation under the Criminal Injuries Compensation Scheme (CICS) if the CIC Board assesses the total loss to the injured person or to the dependants in the case of death at a value greater than is compensated for by the PCSPS and any social security payments. The CICS does not apply to death or injury overseas but analogous payments may be made to members of the PCSPS and their dependants in such cases and these payments are charged to the Civil Superannuation vote.

2. An assessment was made of the adequacy of these additional benefits at the end of 1981 in the context of terrorist attacks following the bombing of the house of the Attorney General (injury benefit cover for Ministers and political advisers is provided by the PCSPS), and at that time Ministers concluded that they were adequate. The assassination of Mr Whitty in Athens has, however, caused the Prime Minister to ask for a further review of these compensation provisions to be undertaken. The purpose

this note is to report on that review.

### The present arrangements

3. The Civil Service has long recognised a special responsibility to its employees who are killed or injured on or as a result of their duty, and the benefits currently available under the PCSPS in the form of annual allowances and lump sum payments are related to loss or impairment of earning capacity on the one hand and the needs of the employee and/or his dependants on the other. A summary of the provisions is given at Annex 1 (which also contains for comparison a summary of benefits in the case of ordinary retirement or death).

4. The injury benefit provisions of the PCSPS are broadly comparable with those contained in other public service schemes although the police and fire schemes are more generous in certain circumstances in relation to lump sum provision and perhaps pension (see paragraph 12 below). In the case of injury, the overall objective of the annual payments is to top up the individual's occupational and/or social security benefits to a predetermined percentage of pensionable pay, the percentage varying according to the degree of impairment of earning capacity attributable to the qualifying injury and taking account of length of service. A seriously injured civil servant would be provided with a guaranteed minimum income of up to 85% of pensionable pay. In the case of death, the objective is to provide

minimum income guarantee, including certain social security or occupational scheme payments, which looks to the needs of the dependants of the deceased. A widow would be provided with a guaranteed minimum income of 45% of her late husband's pensionable pay.

Mrs Whitty

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Mrs Norris

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CICS Awards

7. In the case of death or injury in the UK, the CIC Board assesses total damages for the victim and/or dependants. It then deducts from that assessment the total discounted value of the payments available to the victim or dependants from social security and/or occupational pension schemes, and makes an award to cover the difference. The CICS does not cover injury or death outside the UK but the Treasury, with the assistance of Treasury Counsel, did a similar calculation for Mrs Whitty and for Mrs Norris.



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The case for improvement

8. In commenting on the inadequacy of the PCSPS provisions in Mrs Whitty's case the Prime Minister indicated that she thought the widow's pension of 45% pensionable pay particularly ungenerous. The Minister of State, FCO, has echoed that comment in the case of Mrs Norris and has added that the lump sums payable from the scheme in her case also seem low.

9. Rate of Pension. If a member of the PCSPS dies in service of natural or other non-attributable causes the most his widow can receive in pension is 25% of his pensionable pay. In most cases of natural death in service the percentage is much smaller than that and in many cases much smaller, commonly 1/6th or less. Viewed against that background, the guaranteed widow's pension of 45% of pensionable pay provides a substantial topping up to social security and occupational payments and seems relatively generous bearing in mind that the financial consequences for a widow are the same whatever the cause of her husband's death. And indeed arguments of that sort have been used

those advocating improvements in the benefits for all civil servants who die in service. If the 45% provision were improved on for cases of attributable death, the pressure for improvement for non-attributable death would intensify.

10. Transitional pension. The "transitional pension" for death in harness widows is a feature of the pension scheme, not an additional benefit under the injury compensation rules. Its effect is that the widow continues to receive an income equivalent to her husband's pensionable pay for a transitional period in the early months of widowhood to enable the widow to adjust to her new circumstances. It is paid for a period of six months if there are also dependent children. If, however, the widow receives the additional lump sum benefit of 3 months pensionable pay because her husband was killed on duty, the transitional pension is only payable for up to three months. It might therefore be possible to change the rules so that all widows in cases of attributable death receive transitional pension for a full six months. The cost of such an improvement would be very small for the civil service and inconsiderable if extended to other public service schemes. It might of course increase pressure for improvement for ordinary widows without dependent children but this could probably be resisted, and on balance we recommend it.

11. Injury benefit lump sums. Section 11 of the PCSPS includes provision for a lump sum of 3 months pensionable

pay to widows in the case of attributable death and a case could be made out for increasing this to 6 months pay or even longer. The danger here is that the wider the gulf between what is available in the case of attributable death and ordinary death the greater the pressure from the trade unions for an improvement for ordinary widows on the grounds that the needs of the dependants are the same whatever the manner of death. DHSS face the same issue in relation to industrial preference under the social security system. However, an improvement to six months would not materially affect the balance and would have very limited public expenditure implications, even if the change were extended to other public service schemes. (Exceptions to the public service norm of 3 months have already been made in the case of police and fire-service widows to whom lump sums payable in the event of death following injury on duty are set at 5 years' pay. This was a concession originally made to the firemen by their employers but subsequently allowed also for policemen because of the close similarity between the pension arrangements of the two services.) We therefore recommend that an improvement to six months pay should be made.

12. Death in Service benefit. The PCSPS provides for a lump sum payable to the dependants in the event of death in service from whatever cause. The maximum is 1½ years' pensionable pay after 40 years of service but the norm is 1 year's pensionable pay. There is a case for some improvement here in that the PCSPS compares poorly in this

respect with what is available in private sector schemes, some of which provide for lump sums of up to 4 years' or more pay. The Civil Service Unions have a claim on the table for an increase from one to two years' pay. However, the cost for the Civil Service alone could be as high as £16m a year. That represents an addition of 0.3% to the total remuneration package and we would therefore be bound to take it into account in some way in determining the 1985 pay settlement though civil servants themselves would not of course benefit from the increase. Moreover, such an improvement in the PCSPS would inevitably lead to pressure for similar improvements in other public service schemes. On balance, therefore, we recommend against any improvement here for the present time, though we would not rule out the possibility of negotiating an improvement with the Trade Unions, sometime in the future.

### 13. Compensation for "outrage"

It has been suggested that there may be scope for special awards for the dependants of public servants killed in public outrages such as assassination or bombings. Public and Parliamentary opinion would probably favour such awards and, since they would occur infrequently, the cost would be small, even if they were extended to other public service pension schemes. Moreover, in cases like that of Mrs Whitty there would be no additional cost because of the offset against CICS payments. Such payments would, of course, be strictly out of accord with the concept underlying the compensation arrangements of providing for the needs of dependants but "outrage" payments are perhaps less likely to be cited as justifying improvements in ordinary death

In service benefits than would substantial improvements in the existing compensation provisions. There might be some difficulty in some cases in determining whether the circumstances of death qualified as public outrage. But in most cases, as in those of Mr Whitty and Mr Norris, there would be no such difficulty and the terms of the provision could be worded so as to give the Treasury power to decide in any case of doubt.

14. As to the financing of such awards, we wondered whether funds might be set up for the purpose to which members of the public could contribute as in the case of the RAF benevolent fund or the South Atlantic fund. We concluded, however, that this would be an unnecessary complication and would probably only work in the case of large scale public outrages, if then. We imagine that public opinion would expect such awards to be made from within the relevant occupational pension scheme arrangements.

15. Ministers may therefore wish to consider extending the section 11 provisions to enable payment to be made of an additional lump sum equivalent to one year's pensionable pay to the dependants of those assassinated or otherwise killed in public outrages. Where injuries sustained in an outrage are such as to result in medical retirement, an additional payment of one year's pensionable pay might also be made. These provisions would apply whether death occurred in the UK or abroad, and extend to all persons to whom Section 11 applies as civil servants, persons

employed for the purposes of HMG, and Ministers.

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17. Retrospection. In superannuation matters it is rarely, if ever, possible to make changes with retrospective effect so that to allow Mrs Whitty and Mrs Norris to benefit from improvements recommended in this paper would infringe the no-retrospection principle. That would be seized upon by the trade unions as a breach of the normal rules in order to benefit cases that have attracted the attention of ministers. Nevertheless, some backdating might be possible on the grounds that it was agreed with the unions some time ago that a look should be taken at the injury benefit provisions. In the event, it was decided that

priority should be given to work which culminated in the changes introduced by the amendment scheme laid on 31 July 1984 but a case could now be made for changes in the injury benefit provisions to be operative from the same date as the changes in that amendment scheme.

18. Ex gratia payment. Lady Young has proposed an ex gratia payment to Mrs Norris equivalent to two years of Mr Norris's salary scale at the time of his death. This will not be possible: when Parliament agreed, nearly 100 years ago, that the Treasury should be empowered to make special awards to civil servants who were injured in the course of their duties, they did so on the basis that no such awards would be made without express Parliamentary sanction. This has since been done by clearly defining, originally in statutory instruments but more recently in section 11 of the PCSPS, both the circumstances in which injury awards would be made and how they would be calculated. An improvement in the lump sum for Mrs Norris can therefore only be made as a consequence of an improvement in the scheme.

### Conclusions

19. It will be clear from his paper that the compensation provisions are not ungenerous. The scope for improvement is limited if potentially expensive repercussions are to be avoided. The Trade Unions and others can argue with some justice that the plight of dependants is the same whatever the cause of death. There should, however, be

little real difficulty about the two improvements recommended in paragraphs 10 and 11 above, ie. increasing the transitional pension from 3 to 6 months and the injury benefit lump sum from 3 months pay to 6 months pay, and we recommend that these improvements should be made and applied retrospectively so as to cover Mrs Norris.

20. If Ministers conclude that some further improvement should be made in cases of death or injury in public outrages, we recommend that this be done as described in paragraph 15 by means of an additional payment of one year's pensionable pay, and that Mrs Norris be allowed to benefit from it retrospectively. This special provision would of course remain in place if sometime in the future some improvement in ordinary death in service benefits (see paragraph 12) is negotiated with the Trade Unions.

21. If Ministers wish to consider further options for improvement the simplest and least repercussive would be to increase the injury benefit to lump sum by more than recommended in paragraph 11 above. That paragraph sets out the risks entailed in any further improvement here but Ministers may conclude that such risks are tolerable.

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●. Another option would be to develop further the special compensation discussed in paragraphs 13 to 15 for widows and dependants in cases of public outrage. This could be done by increasing the guaranteed minimum income in such cases from 45% to 50%. The attractions of such a provision are that it would cost relatively little in practice because of the infrequency of outrage cases and would probably meet with little public criticism. The objections to such a move are set out in paragraph 9 to which needs to be added the likelihood that a similar improvement would soon have to be conceded to other comparable public sector schemes which in turn would increase the pressure for similar improvements in all cases of death in service and certainly in all cases of attributable death.

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23. Once Ministers have taken decisions on the recommendations in this report, the next step will be to discuss them with the Civil Service Unions. They are of course unlikely to object to the improvements but will argue that there is a good case on merits for more general improvements on the grounds that the needs of dependants are the same whatever the cause of death.

**SUMMARY OF CIVIL SERVICE BENEFIT PROVISIONS****Retirement and Ordinary Death in Service Benefits**

1. A pension and lump sum are payable to a civil servant who retires at or after the retiring age. The pension is calculated by multiplying  $\frac{1}{80}$ th of pensionable pay by the length of reckonable service and the lump sum is three times the amount of the annual pension. For those who have completed at least 5 years' qualifying service, a pension and lump sum are payable immediately on ill-health retirement. These benefits are calculated in the same way as an ordinary retirement pension and lump sum except that a special addition is made to the length of reckonable service to provide some compensation for the early retirement. The amount of the addition is related to the length of reckonable service. If actual reckonable service is between 5 and 10 years, it is normally increased to double its length; if it is 10 years or more it is increased to 20 years (subject to service not exceeding that which would have reckoned by 5 years after the retiring age) or, if it gives a more favourable result, by  $6\frac{2}{3}$  years (subject to service not exceeding that which would have reckoned at normal retiring age).

2. When a civil servant dies in service, a lump sum death benefit is payable. The amount is the greater of pensionable pay at the date of death or the lump sum which would have been paid had the person been retired on grounds of ill-health at the date of death.

3. A widow of a person who dies before reaching the retiring age will receive a pension at the rate of pensionable pay for the first 3 months of widowhood. This person is normally paid for a further 3 months if there is one or more dependent children. Thereafter, the widow of a person who had completed 5 or more years' service will receive a pension generally equal to one-half of what the husband's own pension would have been had he retired on grounds of ill-health on the date of death. A continuing pension is also paid in respect of any child dependent on the civil servant at the time of death. The amount of the pension is one-quarter of the pension for which the deceased would have qualified had he retired on grounds of ill-health on the date of death. If there are two or more dependent children, the fraction payable is increased to one-half. A widow with two dependent children would therefore receive, after the first 9 months of widowhood, occupational benefits providing an income of 50% of the husband's pensionable pay.

**Injury Benefits**

1. Civil servants who are injured or killed as a result of terrorist attacks, either while they are on duty or simply because they are civil servants, qualify for injury compensation benefits under section 11 of the Principal Civil Service Pension Scheme (PCSPS). Annual allowances and/or lump sums are paid to the civil servant, if his earning capacity is impaired, and to his dependants if he is killed.

2. The annual allowance payable to an injured civil servant tops up any pay or pension and certain of the national insurance benefits to which he may be entitled to provide him with a guaranteed minimum income of up to 85% of pensionable pay.
3. A lump sum of up to 6 months' pensionable pay is payable in addition to the annual allowance and in addition to any lump sum benefit payable under other provisions of the pension scheme.
4. If the civil servant is killed, his widow qualifies for a guaranteed minimum income of 45% of his pensionable pay, regardless of his length of service, and a lump sum of 3 months' pensionable pay in addition to any death benefit that is also payable. The guaranteed minimum income for each child is 10% of pensionable pay, if there is a widow, and 20% of pensionable pay, if no widow's benefit is payable. Similar benefits are payable in respect of a woman civil servant who was contributing for a widower's pension and/or whose children were entirely dependent on her. Benefits may also be paid to dependent parents, brothers or sisters.

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