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CONFIDENTIAL

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Michael Scholar Esq
Private Secretary to
The Prime Minister
10 Downing Street
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20 April 1982

Dear Michael

You wrote to Barnaby Shaw on 5 April recording the Prime Minister's acceptance of my Secretary of State's conclusions about selective dismissal but passing on her suggestion that the proposed three-month re-engagement period might, with advantage, be reduced to a one-month period. The Chancellor also wrote to Mr Tebbit on 8 April welcoming his proposals but pointing out possible implications for the Civil Service in the detailed drafting of the new version of Clause 7.

The main concern of employers about re-engagement is that they might accidentally re-engage former employees dismissed for being on strike long after the strike was over and so open the way to claims of unfair dismissal from other dismissed strikers. On the other hand a right of selective re-engagement after too short a period would be tantamount to the option of selective dismissal and re-engagement which Ministers considered but decided not to adopt. Some strikes do of course last for more than three months, but these are very much the exception.

Another consideration is that employees may be dismissed with notice, particularly when action short of a strike is taken. The statutory period of notice can be from one week up to twelve weeks, and any period short of three months from the date on which the employer gives notice of termination of the contract of employment could result in a right to selective re-engagement before the dismissal had actually taken effect.

Mr Tebbit believes the balance of advantage lies in retaining the three month period and he has now put down an amendment to Clause 7 of the Bill on these terms.

cc JV Ind Pol

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Prime Minister

X is, of course, the reason why we proposed this change. But what is done is done.

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He recognises the Chancellor's concern about the position when different Government Departments are located in the same building. Where groups are clearly employed by different employers, the fact of shared buildings should not create difficulties. However it would of course always be necessary on the facts of each situation to judge how best to use the considerable extra discretion which would be given by these amendments. And in practice it seems likely that the industrial relations considerations would often weigh as heavily as the legal position for employers who might wish to discriminate in selecting employees for dismissal in shared buildings.

I am copying this letter to the private secretaries to the Chancellor of the Exchequer and the Attorney General.

Yours sincerely

Marie Fahey

MISS M C FAHEY
Principal Private Secretary