



10 DOWNING STREET

Pmie Minister <sup>2</sup>

Agree to be surprised  
that so little has been  
done since E(A) 2 months  
ago, and that this now  
needs to be handled  
with a much greater  
sense of urgency, as the  
Chief Secretary implies?

DRN

27/2

Yes

and

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CCBSG



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P 01936

From: J B UNWIN  
27 February 1986

MR NORGROVE

REMUNERATION OF BARRISTERS

You will have seen the Chief Secretary's minute of 26 February to the Lord Chancellor expressing concern about the delay in taking this issue forward and suggesting an early meeting of the Ministers most directly concerned.

*withdwn*

2. I think the Chief Secretary's concern is justified. While some progress is being made (eg by the Attorney General on the regime for payments to barristers engaged by the Crown Prosecution Service), there seems to me to be a real danger of Ministers collectively finding themselves unprepared against another deadline, perhaps in the face of an adverse judicial review.

3. You may think, therefore, that there would be advantage in the Prime Minister lending support to the Chief Secretary's proposal. She could, for example, briefly note his letter and say that she hopes that it will be possible for the Ministers to get together soon as suggested so that a further report can be made to E(A) as soon as possible.

J B UNWIN

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HOME AFFAIRS

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✓ JC BG  
cc JC.

Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon Lord Hailsham of  
St Marylebone, CH, FRS, DCL  
Lord Chancellor's Department  
House of Lords  
London  
SW1A 0PW

26 February 1986

Dear Quint,

## REMUNERATION OF BARRISTERS

ATTACHED  
E(A) on 3 February invited us to come up with a basis for negotiations on long-term arrangements for payments to the legal profession; and in parallel to prepare a memorandum on the extent to which restrictive practices and other conventions impeded the efficient and economical administration of justice and how these might be overcome. And Michael Havers was asked to settle with us a regime for payments to barristers engaged by the Crown Prosecution Service. It is now nearly a month since our E(A) discussion, and the focus of attention at present is the litigation being pursued by the Bar. But I am concerned that we should continue to move matters forward: otherwise, there is a risk that the current litigation will set the timetable for us, that the Bar may gain the initiative, and that we shall face greater difficulties on the substance of their claim if we do not get to grips with it now while they are suing about procedures.

The timing is not altogether on our side. Although I understand that the judicial review will now take place on 20 March, it may of course take much longer for legal proceedings to run their full course. It is desirable too that by 1 April we should have agreed the terms under which the Crown Prosecution Service will engage barristers to take prosecution cases in Magistrates courts. E(A) were concerned to secure a good start to this new service, although we have to balance this with the other considerations of timing and affordability which weighed with colleagues. Also, we need to consider tactics on fresh regulations to implement our decision on a 5 per cent increase; for although they risk being quashed if the judicial review goes against the Government, there is a serious expenditure risk if no valid regulations are in place after the effective expiry of current regulations on 30 June.

There are a number of interlocking issues here on which we need to be ready to move promptly, and I am writing to propose an early discussion between those of us most directly concerned

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will all this so that we can give the necessary directions on substance and timing to our officials. Patrick Mayhew offered just such a discussion recently, and I would be happy to take him up on this suggestion. The points we need to make progress on range quite widely. One of the points which concerns me most is the possibility that the courts may take the view that affordability is not a relevant consideration when you are deciding what is a fair and reasonable rate of remuneration, and I think we should have an early discussion of how to handle this point in the courts.

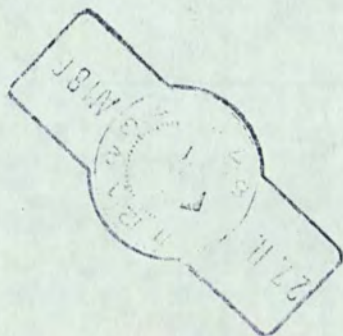
I suggest therefore that those of us most directly concerned meet to go over this ground very soon. It would be helpful if our officials could agree an annotated agenda.

I am copying this letter to the Prime Minister, to E(A) colleagues, to Michael Havers and Patrick Mayhew and to Sir Robert Armstrong.

*Yours ever,*

*JH*

JOHN MacGREGOR





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10 DOWNING STREET

From the Private Secretary

3 March 1986

Dear Richard,

## REMUNERATION OF BARRISTERS

The Prime Minister has seen the Chief Secretary's letter to the Lord Chancellor of 26 February.

The Prime Minister is surprised that so little progress appears so far to have been made towards proposing a basis for negotiations with the legal profession, even though E(A) met to discuss this a month ago. She agrees with the Chief Secretary that this now needs to be handled with a much greater sense of urgency.

BFH

I am copying this letter to the Private Secretaries to members of E(A), Sir Michael Havers, Sir Patrick Mayhew and to Sir Robert Armstrong.

Yours sincerely,  
David

(DAVID NORRGROVE)

Richard Stoate, Esq.,  
Lord Chancellor's Department.

CC