

Prime Minister

Discuss with the Chancellor

Ref.A083/3502

MR BUTLER

When you have your weekly meeting with him on Thursday after Cabinet, the solution suggested in Sir R. Armstrong para 14-17 below?

Treasury Ministers: Membership at Lloyds

PERB

20.12.

I have to report a problem that has arisen because three of the present team of Treasury Ministers are members of Lloyds. I warned you about this in my minute of 20 October (A083/2955).

2. The problem arises partly (but not entirely) because of the changes in the rules governing Ministerial membership at Lloyds. I attach at Annex A the rules that were in effect from 1979 to 1983. As you will remember, these rules were reviewed in consultation with Sir Peter Green and the Department of Trade before the Election, and the Prime Minister approved revised rules for incorporation in the new edition of Questions of Procedure for Ministers after the Election. I attach at Annex B the revised rules. The main changes were:

a. Where conflict of interest arose, to require suspension of underwriting during the period of Ministerial office, not cessation of membership. This change (which was in fact a reversion of earlier practice) was made because it was felt that to insist on cessation of membership imposed too heavy a penalty on the Minister concerned. It is not easy to buy back, if one has ceased to be a member; and it is expensive both to cease and to buy back. It was recognised that as revised the rule left the possibility of conflict of interest less remote, since a Minister could be party to a Ministerial decision which could affect his future interest if and when he ceased to be a Minister to whom the rule applied and resumed underwriting. Moreover, since even if he suspends underwriting a member of Lloyds continues to earn income on his investment, a Minister who suspends underwriting can still be affected, while he holds office, by changes in the taxation treatment of investment income from his capital with Lloyds. But the change from the

old rule, in terms of potential conflict of interest, was not all that great, if one assumed that some one who was a member of Lloyds before taking Ministerial office would probably intend to buy back in the membership when he ceased to hold disqualifying Ministerial office.

b. Under the old rules other Treasury Ministers than the Chancellor of the Exchequer, in common with other Ministers, fell to be considered "in relation to their particular responsibilities", and they were not specifically referred to in the rules. The revised rules went into more detail as to the Ministerial offices which would be regarded as incompatible with continuation of underwriting; in particular (at the suggestion of the Department of Trade) Ministers in the Treasury dealing with taxation were explicitly specified as required to suspend underwriting. The Treasury were not consulted, and argue that they should have been, before this change was made. We consulted the Department of Trade; we also consulted the Inland Revenue, who said that there was nothing in the revised rules to which they would want to object from the point of view of the Inland Revenue.

c. The revised rules, like the old rules, required every Minister, on appointment to a first or subsequent Ministerial office, to obtain the Prime Minister's permission before continuing a connection with Lloyds, however nominal. The revised rules added a provision under which the Secretary of the Cabinet was required to keep a list of Ministers who are members of Lloyds, and to ask every Minister on appointment to a first and subsequent office whether he was a member of Lloyds.

d. The revised rules had not come into effect when the Prime Minister was making her appointments after the Election.

3. Mr Rees is, and has long been known to be a member of Lloyds. During his first period of office in the Treasury, and during his period as Minister for Trade, his position was reviewed and he was allowed to continue as an "outside name". That of course was under the old rules. After he became Chief Secretary, he was told that he should take steps to suspend underwriting so long as he held that office. He has not acted on that ruling, while this question remains unsettled.

4. Mr John Moore is a member of Lloyds. I am not sure that his position was considered while he was at the Department of Energy, or when he became Economic Secretary to the Treasury. I have no record of his having applied for the Prime Minister's permission to continue in membership during that period. When he became Financial Secretary in October, it became apparent that he was a member of Lloyds. I suggested to the Prime Minister that, unless he was to be given a special dispensation, one of three courses must be followed:

- i. he should suspend underwriting;
- ii. he should cease to deal with taxation matters;
- iii. he should be moved to another Department in which his continuing membership of Lloyds would cease to be a potential embarrassment.

5. Mr Barney Hayhoe is also a member of Lloyds. He was allowed to continue underwriting while he was Minister of State, Civil Service Department. That dispensation was not reviewed when he became Minister of State, Treasury. If he is not to be given a continuing dispensation, the same three options appear to be available.

6. I am advised that all three Ministers (but particularly Mr Moore, who has young children at school) would suffer considerable financial loss if required to suspend underwriting, since they would lose the income from underwriting, though they would continue to earn some income on their capital deposit which would be invested by Lloyds during the period

while their underwriting was suspended. I understand that Mr Moore has said that, if he is required as a condition of continuing to be Financial Secretary to suspend underwriting, he will be obliged to resign as Financial Secretary in order to safeguard his income from underwriting.

7. The Chancellor of the Exchequer takes the view that it is not possible to exclude any Treasury Minister from dealing with taxation matters. All Treasury Ministers are involved in the discussion of tax issues. Of the three Ministers in question: the Chief Secretary takes overall responsibility for the Finance Bill, and the Financial Secretary and the Minister of State have direct responsibilities for tax matters. So the Chancellor does not regard option (ii) as available; and in any case, even if it were available for one, it could hardly be used for all three.

8. The Chancellor suggests:

1. The new provision concerning the suspension of underwriting seems to subject Treasury Ministers to financial loss for no purpose and appears to be based on a misunderstanding of their position. They are not responsible for:

i. prudential supervision of Lloyds - a matter for the Department of Trade and Industry and the Bank.

ii. the enforcement of current tax law - a matter for the Board of Inland Revenue. This includes dealing with the irregularities which have come to light. These irregularities of course have nothing to do with the present trading position of syndicates.

So long as any Minister remains a name at Lloyds he will continue to receive an income from past trading for up to three years, and his continuing interest in Lloyds would be just as strong as if the future loss of income from suspension was not in prospect.

2. There seems no reason why dealing with taxation should debar a Treasury Minister from being a name. It has not done so in the past. Changes in tax law for which Treasury Ministers are responsible could affect any source of income including alternative homes for any funds withdrawn from Lloyds. So why single out Lloyds?

3. As the matter was not considered at the time of their appointments, and the risk of conflict of interest was therefore not weighed before they accepted their appointments, it would be unfair to ask them now, having accepted appointments, to have to choose between continuing as Treasury Ministers and continuing to underwrite new business at Lloyds.

He would therefore like the Prime Minister to give special dispensations for all three Ministers.

9. On the first of these points I accept that in substituting a requirement to suspend underwriting for the former requirement to cease membership we have left an increased degree of risk of conflict of interest - though, if one assumes that a Minister who ceased to be a member of Lloyds would be likely to buy back into a syndicate once the relevant Ministerial appointment had ceased, the difference is not very great. I should not myself want to argue that we should reinstate the requirement to cease membership: that is too heavy a financial penalty to inflict, out of proportion to the additional protection from conflict of interest that it provides.

10. Further on the Chancellor's first point:

a. I agree that Treasury Ministers are not formally responsible for prudential supervision of Lloyds, though the Treasury takes a close interest in the matter.

b. Though enforcement of current tax law is a matter for the Board of Inland Revenue, individual cases may be submitted to Treasury Ministers, either for resolution on a point of policy or because a Minister is required to reply to a letter from a Member of Parliament.

c. As I understand it, whether a member ceases membership or suspends underwriting, he continues to receive income

from and be liable for losses in relation to business previously underwritten; but nothing that he can do as a Minister can affect that.

11. On the Chancellor's second point, I agree that the new rules constitute a tightening of the rules, in the sense that under the old rules Treasury Ministers dealing with taxation (in common with other Ministers apart from the Prime Minister, the Chancellor of the Exchequer and the Secretary of State for Trade and Industry) were not specified in the rules but fell to be considered "in relation to their particular responsibilities". The Chancellor is really arguing that we should go back to the old rules, and allow Treasury Ministers to be considered "in relation to their particular responsibilities"; and on this basis he would presumably argue that all three Ministers concerned should be allowed to continue underwriting.

12. On the Chancellor's third point, it is (I assume) correct that your attention was not drawn to their membership of Lloyds when Mr Rees, Mr Moore and Mr Hayhoe were appointed to Treasury Ministerial office. We have taken steps to ensure that in considering future appointments you are, in accordance with the new rules, informed when candidates for Ministerial office are members of Lloyds. But the rules in force when these three Ministers were appointed to the Treasury clearly required them to seek your consent for continuing in membership of Lloyds on a first or subsequent appointment; and none of them did.

*None were new
think not.*

13. There are two questions to consider:

1. is the application of the requirement to suspend underwriting to "Treasury Ministers dealing with taxation" inappropriate (as the Chancellor suggests) or too general?

2. depending on the answer to (1), what should be decided about Mr Rees, Mr Moore and Mr Hayhoe?

14. When I invited the Prime Minister earlier in the year to agree the revision of the rule and to specify Treasury Ministers dealing with taxation as required to suspend underwriting, I did not define "dealing with taxation". What I had in mind in using the phrase was Treasury Ministers who

are responsible under the Chancellor of the Exchequer for advising on tax policy and supervising the work of one or other of the Revenue departments: I did not see the phrase as extending to other Treasury Ministers merely because they took part in internal Treasury discussions on taxation policy or because they were liable to take part in Finance Bill Committee proceedings in the House of Commons. The Chancellor of the Exchequer has put a much wider interpretation on the phrase "dealing with taxation". Clearly we need to clarify what is meant, and if necessary to alter the definition in the rule. I suggest that the definition should require suspension of underwriting by:

"any Treasury Minister who is responsible under the Chancellor of the Exchequer for advising on and supervising work concerned with or affecting the treatment either for income tax or for corporation tax or for capital taxation purposes of money invested in or income derived from membership of Lloyds".

15. My understanding is that this definition would not include Mr Hayhoe.

16. As things are at present arranged, it would include Mr Moore, who (under the Chancellor) supervises the work of the Inland Revenue. He could be taken out of the definition either by a reshuffle of portfolios among Treasury Ministers which transferred supervision of the work of the Inland Revenue to some other Treasury Minister who was not a member of Lloyds (this would in practice mean to Mr Stewart) or by direction by the Chancellor that the Inland Revenue should look direct to himself and not to Mr Moore for policy and case decisions and for Ministerial supervision on any question involving or affecting the income tax or corporation tax or capital taxation treatment of money invested in or income derived from membership of Lloyds. It should also follow that Mr Moore should not take any part in Finance Bill debates on such questions.

17. The proposed new definition would, as things are, include Mr Rees, who has overall responsibility for the Finance Bill. It would clearly be difficult to transfer that responsibility to

any other Treasury Minister; but he could perhaps be excluded by a direction from the Chancellor of the same kind as that suggested in the case of Mr Moore, and by ensuring that Mr Rees did not take any part in Finance Bill debates on the matters in question.

18. The alternative to sharpening the definition would be to take out from the rule any reference to Treasury Ministers other than the Chancellor of the Exchequer, and leave the question for Treasury Ministers (as for most other Ministers) entirely open to the Prime Minister's discretion in each case.

19. My recommendation would be to go for the sharper definition proposed in paragraph 14 above, and deal with the problem of Mr Moore and Mr Rees as suggested in paragraphs 16 and 17. It was a deliberate decision to extend the rule so as to cover Ministers other than the Prime Minister, the Chancellor of the Exchequer and the Secretary of State for Trade and Industry, and it would be inconsistent with that decision to make no reference to Treasury Ministers dealing with taxation issues of direct interest to members of Lloyds.

20. I am sending copies of this minute to the Private Secretary to the Chancellor of the Exchequer, who may well want to discuss this matter with the Prime Minister, and to Mr Middleton.

*Yes - discussion.
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REA

ROBERT ARMSTRONG

20 December 1983



10 DOWNING STREET

From the Principal Private Secretary

21 December 1983

TREASURY MINISTERS: MEMBERSHIP AT LLOYDS

You will have seen Sir Robert Armstrong's minute of 20 December to me. The Prime Minister has read this minute and has said that she would like to have a word with the Chancellor of the Exchequer about it. A convenient opportunity would be when the Chancellor has his weekly meeting with the Prime Minister tomorrow, Thursday.

I am sending copies of this letter to Sir Robert Armstrong and Mr. Middleton (HM Treasury).

E. E. R. BUTLER

John Kerr, Esq.,
H. M. Treasury.