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P 02893

PRIME MINISTER

E(EP) 28 October

Unfortunately, Mr Baker has to leave this meeting of E(EP) at 5 o'clock, to attend a Select Committee. It is very desirable to dispose of all the business before he goes, without having to arrange another meeting, because all the items on the agenda affect the drafting of the Education Bill, which (as Mr Baker may say in Cabinet on Thursday) is already running behind schedule.

2. Detailed briefs are attached. You may find it helpful to have a summary of the main points on each paper.

National Curriculum

3. Mr Baker's paper proposes:

- a. no change to meet the worries of those who fear that subjects like classics will be squeezed out;
- b. some minor changes to meet the concerns of the Churches: for example, a reference to the importance of moral, spiritual and cultural values, and a new duty on LEAs to enforce the Religious Education requirements in the 1944 Act.

4. Mr Walker's paper proposes:

- a. Welsh to be a foundation subject, but with provision for exemption;

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- b. a Curriculum Council for Wales.

Grant Maintained Schools

5. Mr Baker proposes that:

- a. Governing bodies in voluntary schools should inform their Trustees when they intend to hold a ballot on opting out: a partial response to pressure from the Churches. An underlying theme in the papers is how to deal with opposition from the Churches;
- b. any change in denominational or religious status should require his approval;
- c. there should be no reduction in parental representation or total numbers on governing bodies;
- d. grant-maintained schools should publish their admissions arrangements.

6. Mr Ridley argues that Government funding of GM schools should be offset by a levy on the LEA rather than a deduction in grant. This would reopen a decision already made, which was to proceed by deduction from grant, not direct levy.

Further education

7. Mr Baker proposes:

- a. to remove the prohibition against governing bodies choosing an LEA nominee as their chairman;
- b. to relax the requirement that half the places on governing bodies should be filled from business. He wants Governing Bodies to be able to co-opt anyone with relevant experience.

RJW

R T J WILSON
Cabinet Office
27 October 1987

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PRIME MINISTER

Maintained Further Education: Financing, Governance and Law
[E(EP)(87)11]

DECISIONS

The paper by Mr Baker and Mr Walker summarises the responses to their consultation papers on maintained further education (FE): that is, on those colleges of FE which will remain within the local authority sector following the establishment of the new polytechnics and colleges sector outside local government control. The proposals on delegation in FE and on FE law appear generally to have been welcomed: but the proposals on governing bodies have attracted widespread opposition. Mr Baker and Mr Walker seek agreement to make two changes in the light of these comments:

- i. to allow governing bodies to choose one of the local education authority (LEA) nominees as their chairman if they so wish (the consultation papers proposed that LEA nominees should be ineligible for the chairmanship, so as to stress governing bodies' independence from the LEA);
- and ii. To relax the requirement that 50 per cent of places on governing bodies should be filled by representatives of business, industry, the professions and other employment interests. Cooptees - individuals with relevant experience selected from outside the college and the LEA - would count towards the 50 per cent in some colleges.

BACKGROUND

2. E(EP) approved Mr Baker's proposals on maintained FE on 21 July (E(EP)(87)2nd Meeting). The Sub-Committee asked him however to consider, in consultation with the Secretaries of State for



Employment and Trade and Industry, whether the Manpower Services Commission (MSC) might be able to play a role in improving the efficiency and relevance of FE provision for the 16 to 19 year old age groups. Mr Baker was asked to report back in due course on the outcome of these discussions, but has not covered the issue in this paper. You may want to ask him how he is getting on.

MAIN ISSUES

Relationship with Local Education Authority

3. The paper proposes that delegation to FEs should be on broadly the same basis as for financially delegated schools, and that Chief Education Officers should give advice on appointments to Principal, Vice-Principal and Chief Administrative Officer (paragraph 2). You may wish to check that decisions taken in E(EP) on Monday about delegation to schools will be applied equally in FE and, for instance, that colleges of FE will only be required to consider advice from Chief Education Officers and not be bound by it.

Chairmanship of Governing Bodies

4. Respondents to the consultation paper accepted that neither staff nor student governors should be eligible for the chairmanship. But they argued strongly that a governing body should be free to choose their chairman from among the remaining members, including the LEA nominees as well as those representing employment interests and parents. Mr Baker and Mr Walker wish to respond to these representations by removing the ban on LEA nominees and by having no restrictions on eligibility for Chairmanship in the Bill. Staff and students would be excluded by individual college Instruments of Government, not by legislation. The Secretaries of State argue that the Government's faith in governing bodies should be extended to allow them a free choice of chairman; that LEA nominees will be a relatively small minority on governing bodies; and that there would be no question of LEAs imposing an LEA chairman against the wishes of the independent members. You may wish to check:



a. whether this proposal, combined with the proposal on the composition of governing bodies (see next paragraph), could lead to LEAs gaining too much dominance in practice in the running of Governing bodies;

and b. what arrangements the Secretary of State has in mind for making sure that Instruments of Government contain - and continue to contain - exclusions on staff and students becoming chairmen of governing bodies.

Composition of Governing Bodies

5. Consultees have expressed concern at the proposal that 50 per cent of the places on governing bodies should be filled by representatives in employment interests, for two main reasons. First, that it may prove very difficult to find suitable people to fill all the places (perhaps 4,500 in total). Second, that such a preponderance of employment interests might not be relevant for certain colleges with substantial non-vocational provision. Mr Baker and Mr Walker wish to respond to these representations by extending the 50 per cent employer interest category to include cooptees: that is, any individuals with relevant experience selected from outside the college and the LEA. The number and type of cooptees would depend on the nature of the college, and would be controlled by the Instruments of Government which the Secretary of State has to approve. For example, the Instrument of a tertiary college might specify a number cooptees drawn from feeder schools.

6. Much will clearly depend on how the Secretary of State exercises his responsibilities in agreeing to the number and type of cooptees. For colleges with a preponderance of vocational courses, it would still seem appropriate for 50 per cent of governors to be drawn from employer interests, providing suitable people can be found. For other colleges, cooptees representing different interests - eg special need groups - may be appropriate. But if rules on the background of cooptees are drawn too loosely there could be a possibility of governing bodies becoming



unbalanced: for example a large number of cooptees from feeder schools maintained by the relevant LEA could lead to too large an LEA-related element on a governing body. You will probably want to seek assurances from Mr Baker and Mr Walker on these points before you agree to their proposals on the composition on governing bodies.

HANDLING

7. THE SECRETARIES OF STATE FOR EDUCATION AND FOR WALES could be invited to speak first. Other Ministers could be invited to contribute as the discussion develops.

RTW.

R T J WILSON
Cabinet Office
27 October 1987

cc B/ep
C/ep

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PRIME MINISTER

GRANT MAINTAINED SCHOOLS: GRANT OFFSET OR LEVY

Minute of 23 October from the Environment Secretary.

DECISIONS

The Environment Secretary seeks to reverse E(EP)'s earlier decision that the cost of financing Grant Maintained (GM) Schools should be recovered from the local education authority (LEA) by way of a deduction from grant rather than a direct levy. He now wishes to proceed with the levy option.

BACKGROUND

2. You agreed before the election that GM schools should receive recurrent funding from the Exchequer at the same level as they would have received from their own LEA. But to ensure financial neutrality, you agreed that the same amount would be recovered from the LEA. Deduction from grant (rate support grant before 1 April 1990 and revenue support grant thereafter) was seen as the most likely mechanism, although the Environment Secretary argued that a levy would be more consistent with the aims of the new local government finance system to be introduced in 1990/91.

3. The issue was discussed further at E(EP) on 15 and 21 July (E(EP)(87)1st and 2nd Meetings). You felt that an explicit levy would be damaging presentationally and would provoke local resistance to GM schools. However you accepted that the grant offset mechanism could not be applied in all cases: for example, the ILEA gets no grant under the present local government finance system, and would have to be subject to a levy for 1989/90 at least; and you have agreed that under the new local government finance system revenue support grant will be paid only to lower tier authorities in England, so that grant deductions could not apply directly to either ILEA or the Shire county councils. You



therefore agreed that the recovery of the costs of GM schools should be presented in terms of a deduction from grant, but that there would be exceptions from this general rule. However, the Consultation paper on GM schools made no reference to these issues: it referred simply to recovering the full amount of a GM school's recurrent grant from the LEA.

MAIN ISSUES

4. Mr Ridley has now looked more closely at the practical and legislative implications of using the grant deduction route. He believes it has the following main disadvantages.

- i. It will require early decisions on opting out, so that the necessary grant changes can be made from the start of the financial year.
- ii. It will require complex legislation to allow him first to calculate local authorities' grant as if they retained full responsibility for GM schools, and then to make deductions from the resulting notional grant entitlements. This will complicate drafting of the Education Bill (which is to provide for grant offsets under the existing RSG system) and the Rates Reform Bill (which is to provide for deductions under the new system). Drafting of the latter Bill is proving very difficult, and its introduction has already had to be delayed.
- iii. He fears that the complicated provisions will be subject to a substantial risk of legal challenge.
- iv. Contrary to E(EP)'s earlier fears, he believes that the grant deduction route may actually have a higher profile presentationally than the levy route. This is illustrated in the model community charge bill attached to his minute, which makes spending on GM schools and the corresponding grant deduction explicit.

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He believes that all these difficulties would be removed or mitigated if E(EP) were now to agree to a direct levy to recover the costs of GM schools from their LEAs.

5. Points against Mr Ridley's approach are as follows.

- a. As E(EP) recognised earlier, a Government levy on the local authorities is presentationally harder to defend than a reduction in Government grant.
- b. Mr Ridley seeks to reopen a decision already made. He has not produced any essentially new points, and he has not demonstrated that a grant deduction system is unworkable.
- c. The Education Bill is already running behind schedule. Would a change of mind now mean redrafting parts of the Education Bill and what effect would that have on its timetable? You might ask Mr Baker for his views on that.
- d. Mr Ridley points to only one operational, as opposed to legislative, disadvantage of the grant deduction option. This is that it would be hard to operate where the opting-out decision was made after the demand had gone out. You may wish to explore this. Grant is paid to local authorities all through the year, so why could not some of the later instalments be reduced to allow for opting out? Since the effect on LEAs is financially neutral, they could not say that this created uncertainties for their planning.

All in all, you may feel that there is not sufficient evidence to overturn the view earlier reached by E(EP) on the presentational disadvantages of a levy. In that case you will want to ask Mr Ridley to make the best job he can of implementing E(EP)'s earlier decisions.

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6. The alternative would be to accept that the difficulties with the grant deduction route are so large that E(EP)'s earlier decision should be reversed. In that case you may want to ask Mr Ridley to seek the best possible presentation of the levy approach. This could include:

- i. use of a term which stresses the real nature of the payments by LEAs. "Levy" does not seem the best term to use; "recoupment" might be better;
- ii. ensuring that in operational terms the new payment from local authorities will be offset against their grant wherever possible. You may want to ask the Education Secretary to consider whether there could be an offset from education specific grants which will continue to be paid directly to each LEA.

Action of this sort could help to counter the presentational problems of the levy option, at least in part.

VIEWS OF OTHER MINISTERS AND HANDLING

8. The Treasury will advise the Chief Secretary, Treasury to adopt a fairly neutral line, on the ground that the matter is one primarily for Department of Environment and Department of Education and Science and that the differences of substance are small. The Education Secretary, while he may see some attractions in principle in Mr Ridley's option, is likely to be concerned about the threat of further slippage to the Education Bill. You may also want to ask the Lord President of the Council and the Lord Privy Seal for their views, in particular as regards the handling of the Bill.

R.T.J.

R T J WILSON

Cabinet Office

27 October 1987

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ccB/HP

PRIME MINISTER

REFORM OF EDUCATION: GRANT MAINTAINED SCHOOLS

E(EP)(87)9

DECISIONS

Mr Baker's paper outlines responses to his consultation paper on the Government's proposals to allow schools to opt out of the local authority sector, and become grant maintained (GM) schools. Decisions are needed on the following changes which he proposes to make in the light of the responses:

- i. to require the governing bodies of voluntary aided schools to inform their Trustees (eg the relevant diocese, parish or religious Order) when they resolve to ballot parents on an application for GM status;
- ii. to treat any change of denominational or religious ethos at a GM school to be treated as a significant change of character, requiring the Secretary of State's approval;
- iii. to adopt the level of parental representation of governing bodies proposed in the Annex to the consultation document, rather than some lower level;
- iv. to require GM schools to publish particulars of their admissions arrangements each year;
- v. to provide safeguards for pupils with statements of special educational needs;
- vi. to provide that staff should transfer automatically to the new employer when a school becomes a GM school.

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BACKGROUND

2. E(EP) agreed the arrangements for GM schools which were included in the consultation paper at two meetings on 15 and 21 July (E(EP)(87)1st and 2nd Meetings). E(EP) expressed a number of concerns which are relevant to the proposals in Mr Baker's paper.

i. One concern was that the size of governing bodies proposed (16 or 17 for schools with up to 600 pupils, and 18 or 19 for schools with more than 600 pupils) might be too large. E(EP) agreed that the consultation paper should make it clear that the Government was ready to consider the possibility of smaller governing bodies.

ii. Another concern was that the arrangements for controlling the admissions policy of GM schools should be no more onerous than those for voluntary aided schools. E(EP) accepted that GM schools should be required to assure the Secretary of State that they would maintain their character and reflect this in their admissions policy, and that this would require consultation with him. But they insisted that any more stringent control should so far as possible be avoided.

iii. A third concern was that GM schools should be able to dispense with the services of inefficient teaching staff. E(EP) accepted that few schools were likely to opt for GM status unless teachers automatically became staff of the new GM schools. But they agreed that there should be a special scheme for Government assistance with costs arising from premature retirements or dismissals initiated during the first 12 months as a GM school.



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MAIN ISSUES

Voluntary Aided Schools: Concerns of the Churches

3. Mr Baker is concerned at the poor reception of his proposals by the churches. Almost one-third of primary and secondary schools in England are voluntary aided schools, most of them Catholic or Church of England foundations. His proposals to require governing bodies of such schools to inform their Trustees when they resolve to ballot parents on an application for GM status, and to treat any change of denominational or religious ethos as a significant change of character, are designed to meet the churches' concerns. Mr Baker proposes to hold in reserve the possibility of requiring governing bodies to consult the Trustees about an application for GM status. You may want to ask for views generally on whether this is the right line to take to minimise the Churches' opposition to the proposals. What effect would it have for example in the House of Lords?

Parental Representation on Governing Bodies

4. Consultees have expressed concern that there should be a continuing role for parents at GM schools, particularly in the light of parents' role in establishing them. This concern points in the opposite direction from E(EP)'s earlier worries about the size of governing bodies. Mr Baker therefore proposes to stick with the proposals in the consultation paper, which will provide for four elected parents at schools with up to six hundred pupils and five elected parents at schools with more than six hundred pupils. In the light of the views of consultees, you may wish to agree.

5. If the committee is still concerned about the size of the governing bodies, another way of reducing it would be to provide that there should be no more than 1 teacher representative in addition to the head teacher. But this may be more difficult now that the consultative document has referred to '1 or 2'.



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Admissions Procedures

6. Mr Baker proposes that GM schools should be required to publish their admissions arrangements, to respond to concerns expressed by parents about whether their child will get a place at a particular school. Local authority schools are already required to publish their admissions arrangements, and it is difficult to see any objections to a similar requirement on GM schools. In particular, it does not appear to be a restriction of the sort which E(EP) was concerned about in July. Mr Baker also proposes to apply to GM schools a safeguard on the position of some pupils with special educational needs which applies to local authority schools. This too seems unexceptionable. You will therefore probably want to agree to these proposals.

Staffing

7. The consultation paper envisaged, following the E(EP) discussion in July, that teachers would be offered continued employment when their school became a GM school. This raised the possibility that some might refuse, and claim redundancy compensation or go to an Industrial Tribunal. Mr Baker now proposes to provide for the automatic transfer of staff to GM schools which avoids this risk. It is consistent with the arrangements which have been agreed for staff at polytechnics and in schools in boroughs opting out of the ILEA. He also now proposes to provide that as from the date of introduction of the Bill no contract or collective agreement made after that date would be able to rule out compulsory redundancy or provide redundancy benefits in excess of the statutory minimum. This too is consistent with previous arrangements, such as those when the GLC was abolished. You will therefore probably want to agree to Mr Baker's proposals on staffing.

RJW

R T J WILSON

Cabinet Office

27 October 1987