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CABINET

EDUCATION IN LONDON

Note by the Secretary of the Cabinet

At their meeting on 8 March the Cabinet instructed me to prepare a note, in consultation with the Departments concerned, on certain aspects of the proposals in C(84) 10 about the organisation of education in London (CC(84) 9th Conclusions, Minute 4).

2. This note has been prepared in consultation with officials of the Department of Education and Science, the Department of the Environment, the Home Office, the Treasury and the Parliamentary Counsel Office. It covers the following topics:

- i. The nature of the proposed new directly-elected Inner London Education Authority (ILEA).
- ii. The implications of holding the first elections to the body in May 1985, including the implications for the legislative timetable.

Matters for decision are summarised in paragraph 22 of the note.

THE PROPOSED NEW AUTHORITY

3. The local education authority for inner London is at present the Greater London Council (GLC) acting through a special committee. (It is this committee which is generally referred to as the ILEA.) The GLC cannot amend the amount for the education precept determined by the special committee, nor interfere in the way in which the committee carries out its education functions.

4. The proposed new ILEA would have all the functions of a local education authority (namely responsibilities in relation to schools, further and higher education, adult education and the youth and careers services) in inner London after April 1986, when the GLC is abolished. It would be a separate corporate body raising its funds by rate or precept on rateable property in the inner London boroughs and the City of London. It would be subject to rate-capping; and in the first three years of its existence it would be subject to the special financial and manpower controls proposed for joint boards in the White Paper "Streamlining the Cities". It would

have nearly all other financial powers of a local authority, including the right to borrow under a general consent, but with the specific approval of the Secretary of State in certain cases, both temporarily and long-term. It would not, however, have power under Section 137 of the Local Government Act 1972 to spend up to the product of a 2p rate for purposes not otherwise authorised: the intention is to prevent the new-style ILEA from funding activities other than educational activities.

5. The body would be elected by local government electors for the inner London boroughs and the City of London. There would be insufficient time for the Local Government Boundary Commission (LGBC) to recommend single-member electoral divisions for the first elections. Whether these were held in 1985 or 1986, the most straightforward basis would be for two members to be returned for each Parliamentary constituency in inner London. This approach might well serve for the longer term: multi-member wards are a common feature of the local government electoral system. However, if Ministers wished, it would be possible to require the LGBC to recommend new, single-member, electoral divisions as soon as they have completed their forthcoming review of borough boundaries. If the elections were held every four years, this would enable the third round of elections (ie in 1993 or 1994) to be fought on the basis of single-member electoral divisions. It would be essential to have enough divisions to return a membership large enough to carry out the work of the ILEA (about 50 people).

6. It was argued in previous discussion that the new body should be a rating rather than a precepting authority, in order to enhance its accountability to the ratepayer.

7. The proposals in the Rates White Paper already go a long way to enable the ratepayer to perceive how much the ILEA is costing him. In all areas, from 1985-86 each ratepayer will be able to see, on the face of his rate demand, the amount attributable to each upper-tier authority as well as the amount levied by the rating authority itself. Moreover, the information supporting the rate demand will for the first time have to be sent to every household, including those in council houses.

8. These arrangements could be developed to provide that the directly-elected ILEA should issue a separate statement to each ratepayer explaining its budget and setting out the rate poundage and, if desired, the actual amount of the bill attributable to the ILEA (duplicating the information on the rate demand itself). This would require new powers to be taken in the main abolition Bill. The procedure would be as follows: for reasons of economy the rating authorities would issue each ratepayer with a demand for a single sum; this would include the borough rate, the amount to be levied for the ILEA and a separate amount to be levied for every other major precepting authority, including the Metropolitan Police. It would be possible to provide in addition for the ILEA statement to be issued in a separate envelope to make it even more perceptible. But this would cost more and does not need to be decided now.

9. To go further and require rating authorities to demand and collect the ILEA's rates completely separately from their own rates would be much more costly (say £5 million) and a possible cause of confusion to the ratepayer.

10. To go further still and make the ILEA a rating authority would mean that, in addition to issuing rate demands direct to ratepayers it would become responsible for administering rate enforcement; administering housing benefit (which now incorporates rate rebates); and deciding the application of discretionary relief (eg for empty property). This would require a substantial change of practice and principle in the rating system, and extensive technical redrafting of the General Rate Act, since existing legislation is based on the assumption that there is only one rating authority in each area. Functions in inner London would be duplicated. The ILEA would have to set up from scratch a large rate collection department. Apart from complex arrangements for administering housing benefit, domestic rate relief grant, which is paid to rating authorities in order to reduce domestic rate payments by 10p for every pound of rateable value, would have to be apportioned in a consistent way between the ILEA and each of the boroughs. The running costs might match the existing costs of rate collection in inner London, which in 1983-84 are about £16½ million. (The costs of establishing and running the ILEA as a rating authority cannot be compared with the costs to water authorities of collecting water charges. Water authorities do not have to administer the rating system and rate reliefs, notably housing benefits.)

11. Ministers will wish to note the following points:

a. If it were a rating authority the ILEA would be able to exercise some discretion in granting rate relief to particular classes of property, but it is unlikely that it could discriminate unfairly between different London boroughs. Existing legislation already contains safeguards against such discrimination, which could be supplemented, if found necessary, in the legislation providing for direct election.

b. There are no substantial implications for the London Rates Equalisation Scheme. But, if the ILEA were a rating authority, the arrangements for splitting domestic rate relief grant between the tiers would need to be adapted to the special circumstances of the central boroughs, which contribute to the Scheme.

c. Whatever the other arrangements for 1985-86, the finance for the ILEA in that year must be raised by precept. It would not be practicable to create an authority able to levy a rate before April 1986; and it would not be appropriate to include in the Paving Bill the powers required to provide for the separate statement described in paragraph 8 above. The precept would be subject to rate-capping.

PROVISION FOR REVIEW

12. It was suggested during the Cabinet's discussion on 8 March that it would be important to make provision for a review of any new arrangements for education in inner London. The possibility of reviewing the new arrangements could arise also in relation to joint board services in London and the metropolitan counties, and it may be desirable that the review provisions for each service should be consistent. Further work is required

on these matters. In any event, it is suggested that provision for review would be more appropriate to the main abolition Bill: the Paving Bill will be confined to the minimum required to make the abolition timetable effective; this clearly does not include provision for a review in the longer term.

IMPLICATIONS OF ELECTIONS IN MAY 1985

13. It was proposed in C(84) 10 that the first elections to the new authority should be held in May 1985: since the main abolition Bill is not expected to receive Royal Assent until July or August 1985, this would require the necessary statutory provisions to be included in the Paving Bill, to be introduced later this Session.

THE CASE FOR ELECTIONS IN MAY 1985

14. Until May 1985, the GLC will continue to exist in its present form; education in inner London will continue to be run through the special committee of the GLC, composed of 35 GLC members and 13 appointees from the inner London boroughs and the City of London. In May 1985, under the Government's abolition proposals, although the GLC will continue in being, its existing members will be replaced by representative members of the London borough councils. If the new, directly-elected authority did not take over until April 1986, the membership of the ILEA between May 1985 and April 1986 would have to be composed entirely of appointed borough representatives. Many members of the present ILEA and likely candidates for the directly-elected ILEA would not be able to serve during this period because they would not be members of borough councils. There would thus be a serious discontinuity in the membership of the body responsible for education in inner London, taking the illogical form of interposing a nominated body between one which is mainly elected and another which will be wholly elected.

15. There is the further argument that it may be less confusing if the GLC elections due in May 1985 (but to be cancelled under the abolition proposals) are replaced at the same time by elections to the special committee rather than cancelled and replaced by different elections at a different date.

16. The implications for the legislative timetable of including provision in the abolition Paving Bill are discussed in paragraphs 19-21 below. Ministers will also wish to consider the points in paragraphs 17 and 18.

STATUS OF ILEA BETWEEN MAY 1985 AND APRIL 1986

17. It is inescapable that the ILEA will continue until April 1986 to have its present status of being the GLC acting through its special committee: there is not time to prepare and pass the legislation that would be needed to transfer property to a new body and make appropriate provision for staff and finance from an earlier date. This is true whether the legislation is part of the abolition legislation or a separate Bill.

It follows that successful candidates in elections in May 1985 would initially become members of a special committee of a body of which they need not themselves be members, and which would not itself have been directly elected. While this presents no insuperable legal difficulty, it may be criticised as anomalous. But the criticism could be regarded as pedantic, since both electors and members now regard the ILEA as wholly independent of the GLC, as in substance it is.

ANTICIPATION OF PRINCIPLE OF ABOLITION

18. The Government has been concerned not to include provisions in the Paving Bill which could be regarded as prejudging the principle of abolition. If provisions for direct elections in May 1985 were included in the Paving Bill they would therefore, like other provisions in the Bill, not be brought into effect until after the Main Bill had received its Second Reading in the 1984-85 Session. The Paving Bill will also contain provisions to cancel the effects of any action taken under it if the Main Bill should eventually fail to pass into law. Nevertheless, the possibility would exist that direct elections might be held in May 1985, only to be followed by the failure of the Main Bill at a later date. The possibility would be remote: there is no obvious reason why the Bill should fail once it had received Second Reading in the House of Commons. Even so, the Government might be accused of anticipating the principle of abolition, by providing for direct elections which might leave the successful candidates in limbo, in a more significant way than in the other matters to be covered by the Paving Bill.

LEGISLATIVE TIMETABLE

19. Ministers aim at securing Royal Assent to the Paving Bill by the end of July. I understand that the business managers in the House of Lords consider that this requires the Bill to be introduced in that House no later than the week beginning 4 June. If the Bill is not introduced in the House of Commons before the House rises for the Easter Recess, it will be impossible to achieve this without the most severe curtailment of debate in the House of Commons.

20. Parliamentary Counsel has advised that it should be feasible to have the Bill, with provision for the ILEA elections but no other changes, ready for introduction before the Easter Recess, especially if detailed provisions are dealt with in secondary legislation. Nevertheless, there is an unavoidable risk that a compressed timetable for the preparation of instructions and drafting would lead to a need for amendments after introduction; and the Bill would still have to follow a very tight timetable.

21. Ministers will also wish to consider the following:

- a. If the Paving Bill covers elections, it will be open to amendments providing for different electoral boundaries, proportional representation, and the like. Discussion of such amendments could extend the timetable in both the House of Commons and the House of

Lords. But the Bill is already so open because it provides for the constitution of the transitional body and amendments proposing a different constitution can be in order.

b. Providing for direct elections in the Paving Bill should greatly ease the passage of the legislation. If Ministers decided against this course, it would probably be necessary to make an early and detailed statement of the Government's intentions.

QUESTIONS FOR CONSIDERATION

22. If Ministers favour the principle of establishing a new directly-elected authority to run education in inner London, they will wish to decide the following issues:

i. In view of the formidable difficulties that would be involved in making the new, directly-elected body a rating authority, are Ministers prepared to accept that it should raise its funds by precepting?

ii. If so, should it issue a separate statement to each ratepayer of its budget and rate poundage?

iii. Is it agreed that any provisions requiring a review of educational arrangements in inner London would be appropriate to the Main rather than to the Paving Bill?

iv. In the light of the considerations in paragraphs 14-21 above do Ministers wish to provide for the first direct elections to be held in May 1985 and therefore to include the necessary statutory provisions in the abolition Paving Bill?

Signed ROBERT ARMSTRONG

Cabinet Office

13 March 1984