CONFIDENTIAL

P 01884

PRIME MINISTER

NBPM — meeting not held.

Teachers' Pay Dispute
Resumed meeting of MISC 122 after Cabinet on
23 January

You agreed to resume this morning's MISC 122 discussion after Cabinet tomorrow. Sir Keith Joseph intends to send you a further minute this evening outlining his own recommendations for action. I expect these to centre once more on some form of inquiry, as a precursor to legislation. There are, however, some delicate issues of tactics and timing, as well as substance, and you may find the following analysis (based on discussions with senior officials of the Departments concerned following MISC 122) helpful background to further consideration.

ACAS INTERVENTION

2. There was some uncertainty about this this morning. But it is crucial to have a clear view of where ACAS have got to and what the prospects are for agreement at the resumed talks on Friday. My understanding of the position is as follows.

3. The ACAS approach is three-legged:-

(i) cash settlement for 1985 (the figures in circulation are an end loaded 8.5 per cent for 1985 plus 3-4 per cent "on account" from 1 April 1986);

(ii) identification and review of all the other issues that need to be settled (covering both the 1986 salary claim and restructuring, conditions of service, definition of duties, appraisal arrangements etc). This process would be facilitated by the appointment by ACAS of an independent three-man panel which would control the programme and

procedure of negotiations "with a view to an early resolution of differences on all negotiable matters". The Panel would review its work after 6 months to decide whether it could continue to make a useful contribution and to make a final report to both sides on any key unresolved issues, together with its recommendations on how they should be resolved;

(iii) immediate cessation of industrial action.

4. At the discussion yesterday ACAS tabled the attached paper (Annex 1) setting out the above approach. In response the employers' and union sides each tabled their own version of Appendix B of the ACAS document. I understand that these are miles apart, but ACAS intend the resumed meeting on Friday to see whether they can bring the sides closer together. The NUT, however, are not participating; their position remains that they are only prepared to discuss pay.

5. What is the prospect for agreement on Friday? This depends to some extent on the NUT since ACAS would almost certainly not be willing to promote an agreement unless all the parties were involved. If an agreement is in prospect on cash for 1985 the NUT will be under pressure to join in, particularly since they could avoid commitment to the outcome of discussions on 1986 and the longer term issues. On balance, however, agreement on Friday seems unlikely, although some sort of a deal on 1985 at least could emerge later, with or without NUT participation. This would be most unlikely, however, to offer much if any hope of delivering the Government's education policy objectives. The chances are that we should end up in 6 months time with no more than disputed recommendations by the ACAS panel on the longer term issues.

TIMING OF ANY GOVERNMENT INITIATIVE

6. It is still, of course, an option to "stand firm" and let the ACAS intervention take its course. The Government are committed to not providing any extra money to cover the cost of a 1985 settlement,

although they have indicated willingness to meet the knock-on effects of this in the later years in the context of a satisfactory overall package. With the help of a more effective publicity campaign it might just be possible to conclude a successful 1986 negotiation once the present situation had been broken by the 1985 settlement and (hopefully) the teachers had returned to work. The Chancellor still strongly favours this option.

7. If, however, as I think you are now yourself inclined to accept, some initiative needs to be taken by the Government to restore control and, hopefully, win over the more responsible and moderate teachers, the immediate question is whether this should be announced before any ACAS agreement has been reached, or after it. The latter option is not attractive. It would amount in effect to hijacking the ACAS recommendations. This would not be easy, particularly if the employers or unions preferred the ACAS version; and it could be extremely confusing to the public. It would seem much better, therefore, to think in terms of a pre-emptive announcement. Sir Keith Joseph will recommend that this should be made tomorrow (using the occasion of the half-day debate on an Opposition motion on the "crisis in schools"). This would, however, be, and be seen to be, extremely rushed, with a high risk of a slip up (which would be the more dangerous given the present nervy state of the markets). It would in any case seem unnecessary if the assessment above that an ACAS agreement on Friday is unlikely is correct. Subject, therefore, to any further reports on the ACAS initiative, it would seem better to think in terms of any announcement in another week or so (eg on Thursday, 30 January, which would give time for fuller consideration and for the Cabinet to discuss the proposal on that day). It would, however, be advisable to decide earlier that there will be an announcement so that the necessary informal signals can be given to ACAS to head them away from any early agreement going beyond the 1985 cash settlement.

FORM OF INITIATIVE

8. You suggested by implication at MISC 122 this morning the

possibility of a standing review body (by analogy with that for the nurses). This possibility was floated in paragraph 10 of the note by officials attached to the Education Secretary's paper (MISC 122(86)3), but not explored further. How might this best be pursued?

9. First, it could only be effective with legislation. Under the present legal arrangements, any recommendations of a review body would have to be processed through the Burnham machinery leading to the transmission of recommendations to the Secretary of State. Without a change in the law, unless the employers and the unions were willing to accept the proposals of such a body, it would have no chance of success. But equally legislation will only work if sufficient numbers of teachers are willing to live with it.

10. This leads to the second issue - whether such legislation could be introduced without prior consultation. The Education Secretary will argue strongly for such consultation on the grounds that otherwise the Government's proposals would be fiercely opposed and the present industrial action would not end. He is therefore likely to recommend that the Government should announce a comprehensive inquiry, on the lines previously considered in MISC 122. The announcement would not itself refer to the possibility of a standing review body; but this would be expected to emerge from the inquiry's findings in due course.

11. I am sure that DES are right in arguing that a bald announcement of the intention to legislate would arouse considerable opposition. It would certainly be unlikely to win over to the Government side either the parents and public at large or the moderate teachers. It is not clear, however, that consultation needs to take the form of a full blown inquiry, whose risks have already greatly concerned Ministers. An alternative would be a consultation document, which clearly signalled the Government's preferred approach, but offered a genuine opportunity for consultation before final decisions were taken. This would help to retain control in the Government's hands and to avoid the impression of a complete U-turn; but if carefully and

sympathetically presented would at least offer the chance of winning greater support for the Government's case. It should also be quicker than an inquiry if the consultation period were limited to, say, three months.

12. If, therefore, you think that this is worth exploring further, you might wish to commission from the Education Secretary a paper for consideration early next week which:-

(i) sets out proposals for an independent statutory standing body with members appointed by the Government (covering such issues as the terms of reference, the retention of override powers for the Government etc);

(ii) the outline of a consultation document covering both the above and the other legislative changes (on structure, conditions of service, assessment etc) the Government would have it in mind to make.

If such a proposal were approved by the Cabinet on 30 January a brief statement foreshadowing this could be made on that day, leading to a fuller statement and publication of the consultation document shortly thereafter.

HANDLING

13. You will wish to ask the Education Secretary to speak to his new proposals, and to seek the views of the Scottish and Welsh Secretaries on them. You will also wish to ask the Paymaster General to report the latest position on ACAS; and seek the Chancellor of the Exchequer's views, before opening discussion to the Group generally.

CONCLUSION

14 You will wish to reach decisions:-

(i) on whether the Government should allow the ACAS discussions to take their course or should announce a new initiative;

(ii) on the timing of any such initiative, in particular whether it should precede or follow an ACAS agreement;

(iii) on the form of any such initiative, in particular on whether, if a statutory review body were favoured, legislation to introduce it should be preceded by a period of consultation, either through an independent inquiry or a Government consultation document;

(iv) on the further work necessary to permit the Government to take a final decision.

J B UNWIN

22 January 1986
Cabinet Office

IN CONFIDENCE

ANNEX 1

A NEW DEAL FOR THE TEACHING PROFESSION

The problems relating to teachers' pay, restructuring and conditions of service have been developing over a period of time and clearly for a number of reasons (the problem of funding is only one) they cannot all be solved overnight or even in a single year.

Nevertheless a start must be made and ACAS is prepared to help. A number of ideas are therefore developed in this paper which the management and the teachers are invited to consider. Clearly, their implementation can only be effected with the agreement of both sides.

The basic approach is that the two parties, under ACAS auspices, should settle the 1985 salary claim and also chart the way forward. Such agreement(s) in addition to details of the 1985 settlement (pro forma appended 'A') would contain the following:-

1. Identification of the continuing problems that have to be addressed and the objectives that have to be achieved within the context of a new deal. The first draft of a preamble which the two sides are invited to consider is appended 'B'.

2. Identification of the 1986 objectives. These are seen to consist of:-

   (a) settling the 1986 salary claim

   (b) progressing and concluding all the issues relating to restructuring and conditions of service which either the management or the teachers wish to raise. Clearly it would be necessary to bear in mind that the terms of any agreements finally reached were such that new resources were made available by the Secretary of State.

(c) any other negotiable matters submitted by the management or teachers.

3. Provision for the appointment by ACAS of an independent and impartial panel with agreed terms of reference and constitution (first draft appended 'C').

4. It is envisaged that once ACAS conciliation has resulted in "new deal agreement(s)" which has been signed by the two sides and which covers both the Burnham and CLEA(ST) machinery, steps would be taken by all the teachers organisations concerned to call of all industrial action. Burnham would then be invited to ratify the pay settlement of the 1985 claim.

5. The achievement of the 1986 objectives on mutually acceptable terms represents a formidable and complex task. It is reasonable to expect that there will be a period of calm and peace so that the negotiations can be conducted in a constructive manner.

21 January 1986

APPENDIX 'A'

In full and final settlement of the claim of the Teachers' Panel dated 16 October 1984 the following increases shall apply:-

With effect from 1 April 1985

For each teacher £480 per annum or 5 per cent whichever is the greater

or

5.5 per cent for all teachers.

With effect from 1 July 1985

2 per cent for all teachers.

ACAS Note

The above represents the understanding of ACAS as to what was offered informally on 14 October 1985. During the talks at ACAS the Teachers' Panel have made it clear that if any settlement is to be achieved this offer must be improved.

APPENDIX 'B'

STATEMENT OF OBJECTIVES

We, the parties to this agreement, believe that the provision of an effective and efficient education service in schools is at present impeded by the following problems:

- inadequate salary levels;
- an outdated pay structure;
- a lack of agreement as to the proper duties and responsibilities both of teachers and of their employers.

We recognise that the service has to compete with other claims on finite local and national resources. Nevertheless, we believe that real increases in the resources devoted to primary and secondary education are now necessary.

We therefore commit ourselves to negotiate constructively in order to achieve the following objectives as quickly as possible:

1. Salary levels and a salary structure which will
   - attract sufficient teachers of the right quality to the full range of teaching posts, including those carrying leadership responsibilities, or where skills are currently in short supply;
   - retain these teachers, and motivate them to give of their best at all stages of their careers;
   - improve the status of the classroom teacher; and
   - bear comparison with the salaries available elsewhere in the education service and in other professions in which teachers might otherwise be employed.
2. Arrangements for appraisal and training which will
   - ensure that teachers at all levels remain properly equipped for their tasks; and
   - ensure fair selection for posts carrying leadership responsibilities.

3. A clear definition of the duties and responsibilities which should properly be shouldered, as part of the contract of employment, by teachers and by their employers.

APPENDIX 'C'

1. An independent and impartial panel shall be appointed by ACAS with the following terms of reference:

> "To guide, advise and assist the Management and Teachers' to provisional agreements on the pay, structure and career progression of the teaching profession and any other related matters, eg conditions of service, which either party may wish to bring forward for discussion and negotiations."

2. The panel shall control the programme and procedure of negotiations with a view to an early resolution of differences on all negotiable matters.

3. The panel shall consist of a chairman and two other members all of whom shall be appointed by the Chairman of ACAS.

4. The chairman of the panel, in consultation with the members, shall determine all matters of procedure. He will also ensure that where negotiations come to an end over a partiuclar issue, a report is made to the parties and to ACAS on the matter; he will also report to ACAS on matters which are deemed likely to lead to a dispute so that ACAS may arrange for conciliation and, if appropriate and jointly agreed, a reference to arbitration on approved terms of reference.

5. The secretariat to the panel will be provided by ACAS.

6. The proceedings of this panel with the participating parties and any reports arising therefrom shall be private to them.

7. After a period of six months following the date of the ACAS agreement(s) the panel shall review its work with a view to conclu whether it can continue to contribute usefully to a solution of th profession's problems. The panel shall eventually make a final report to both sides and to ACAS on any key issues that have not b resolved. It shall at the same time formally recommend how in its view the problems should be resolved.

8. The Department of Education and Science will continue to play full part in all the discussions that take place under the auspice of the panel.