

is a spectrum of possibilities. Norman Tebbit's idea of grants dependent on a contract between the LEA and the holder of my office; my proposals for an education grant with a substantial element of specific grant.

- (2) To legislate for a regime under which teachers' pay and what it is for is settled on the basis of the work of a statutory review body.
- (3) To legislate to oblige LEAs to put resources into popular schools to enable these to be filled to their physical capacity in response to parental preference. We have to accept that this could be expensive because less popular schools might have to stay open half-empty and that obstruction by hostile LEAs could not be overcome wholly or without cost. (The limited experiment in open enrolment which Kent conducted on the basis of present powers failed because of the cost and organisational difficulties).

4. These measures will reinforce our current reform of teacher training, the curriculum, examinations and school government which are now beginning to work. The credibility of our schools policy depends on how far we improve those now maintained by LEAs. It will need to be clear that we have the confidence, and the means, to put the improvement of LEA-maintained schools at the centre of our policy.

5. I am sending copies of this minute to the Lord President, the Chancellor of the Exchequer, the Home Secretary, the Chancellor of the Duchy of Lancaster, and the Secretaries of State for the Environment and for Employment.

K.J.

HOW TO GET BETTER SCHOOLS: FURTHER POSSIBILITIES

The most recent paper from the Secretary of State is something of a curate's egg. Two out of the four possibilities considered are rejected - national core syllabuses and parental custom -

while a third (devolution to individual schools) is simply a restatement of what is in the current Educational Bill.

Compulsory open enrolment and the establishment of direct-grant schools are both considered feasible but little is said as to how performance in the maintained sector will improve using either a specific education grant or a Tebbit style contract between DES and LEAs.

(a) Proposals to Accept

Compulsory Open Enrolment

The 1980 Education Act permits open enrolment for all parents. Section 6(1) states:

Every local education authority shall make arrangements for enabling the parent of a child in the area of the authority to express a preference as to the school at which he wishes education to be provided for his child in the exercise of the authority's functions and to give reasons for his preference.

LEAs have a duty to comply with these arrangements. However it does not apply Section 6(3)(a) if compliance with the preference would prejudice the provision of efficient education or the efficient use of resources.

Under the present arrangements an LEA might well decide on an upper limit for numbers at one of its schools which is less than the physical capacity of the school, and therefore fail to cater as much as it might for parental choice. DES are of the view that a large number of schools operate with excess capacity at present because of this clause at a time of falling rolls.

For example in Highbury Grove School in Islington, 180 pupils chose it as a first preference for the present academic year: in the preceding year 140 pupils were admitted, while this year ILEA insisted the number admitted was held at 110.

The new proposal in the DES paper is that open enrolment should be made compulsory so that schools in demand would be able and required to admit pupil numbers up to the physical capacity of the schools concerned: LEAs would no longer be able to use the 'efficient use of resources' argument to circumscribe choice.

The proposal should be supported and the DES asked to prepare a major paper reviewing the experiences in Kent and other areas of the country where it has been tried, outlining in

more detail the ways in which the technical difficulties mentioned in para 16 can be overcome.

Direct-Grant Schools

Under Section 100(1)d of the 1944 Education Act, the Secretary of State has the power to:

"pay grants in respect of expenditure incurred or to be incurred for the purpose of educational services".

This could be used to establish direct grant schools without further primary legislation

These DG schools would be different from the old in that there would not be a de facto arrangement with the LEA whereby it 'bought' a certain number of places per year.

New DG schools could be given the green light by the autumn. There is no reason why some should not be up and running by September 1987. But more work is urgently needed from DES on the details of the scheme, especially the academic criteria necessary for new schools or conversion of existing schools, and the financial considerations.

(b) Proposal to reject

Syllabuses for National Core Curricula

These syllabuses would outline a basic standard rather than a complete syllabus to meet the demands of really able pupils. For example in English they would entail reading, spelling, grammar, letter-writing etc.

There can be no doubt that this would be enormously popular with parents: it would give them confidence that their children were being taught the appropriate material and it would enable them to act as auditors of what their children were being taught by individual teachers.

For the concept to be implemented the teaching profession must be on our side. A global introduction of a national core curricula is bound to meet a hostile reception from many teachers brought up in the romantic and increasingly permissive tradition of English education.

Might it not be best to introduce this concept with an extension of the TVEI scheme? This would be very appealing to employers and resisted much less than in the more traditionally academic parts of the teaching profession. In time it would influence the GCSE.

(c) Proposals to query

Parental Choice and Change of Status of County School to Aided/DG School

The more fundamental reforms are extending parental choice even more than open enrolment and allowing trusts, charities, parents, companies and churches the option of setting up foundations to take over or 'buy-out' County Schools.

This option will be fiercely resisted by Keith Joseph and Norman Tebbit. Their objection is twofold:

- (a) it will lead to the demise of LEAs in certain areas which will be strongly resisted by your supporters;
- (b) it will involve increased expenditure on schools run by poor LEAs which will become half-empty with high costs per pupil.

For better or worse, these are the changes which we have to accept if we are to have a permanent improvement in our education system. They cannot be avoided.

Specific Grants and DES/LEA Contracts

Both Keith Joseph and Norman Tebbit argue strongly for these approaches. Yet nowhere do they spell out in detail either

how or why they will result in improved education. For example:

- (i) What sanctions can be applied to a bad authority or a bad school? Increasing the Community Charge? Assume that has little effect. Would you then close the school? If so, you have the same problem as in any of the radical proposals.
- (ii) How would any such approach tie up with the Rates Green Paper? It is in fundamental conflict.

Devolving Powers to Schools

In paras 15 and 16, the paper suggests that the present Education gives considerably greater decision-making power to individual schools. The likely effect of these changes in the Bill must be set against the Audit Commission Review (to be published on Thursday).

This report states that two thirds of all schools "have made no strategic response to the fall in rôles which has been under way for five years or more". It is a very strong indictment of LEAs and their mismanagement of schools.

Please find attached a highlighted copy of the summary of the review.

BRIAN GRIFFITHS

cc Bevan

PRIME MINISTER

How to get better schools; further possibilities

1. On 29 April we considered a paper from me which set out proposals and displayed alternatives. We are due to resume discussion on 14 May. We ruled out the nationalisation of the education service and single-purpose local education authorities (LEAs). I was asked to examine a number of additional ideas. This paper discusses them and the options they give rise to.

It covers:

- (1) Objectives and assumptions (2-3).
- (2) National syllabuses (4-11).
- (3) Parental choice (12-23).
 - (i) Compulsory open enrolment (15-16).
 - (ii) Per capita finance/credits (17-23).
- (4) Devolving decisions to the level of the school (24-25).
- (5) A middle-way system between the maintained and independent sections (26-36).
- (6) Conclusions (37-38).

Objectives and assumptions

2. I take our principal objectives for school education to be:

- (1) Maximum benefit for each child.
- (2) Maximum benefit for the nation.
- (3) Greater parental responsibility and satisfaction.
- (4) Maximum value for the expenditure of public money.

3. I also assume that:

- (5) schooling remains compulsory from 5-16.
- (6) All parents who wish it can secure 5-18 schooling free of charge.
- (7) Our objectives must be achieved at a cost we can afford.

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National syllabuses

4. The curriculum is one of the essential instruments for making schools better serve the children and the nation. (Teaching quality and the effective deployment of human and material resources are the other essential instruments; and of course the influence of the home affects the work of every school). I was asked to consider a nationally determined, standard core curriculum. We need to distinguish between curriculum and syllabuses.

- (1) By curriculum I mean a set of defined objectives. It sets out, for example, the range of subjects to be studied; the balance between them; the objectives of learning each subject (eg in English competence in speaking and listening, ability to read and write for a variety of purposes; in History a chronological map, the ability to weigh evidence and to understand the assumptions and mentality of earlier periods); and the level of knowledge, understanding, and skill to be reached in each subject by, say, age 16 for various levels of ability. A national curriculum is fairly unspecific about the content of what pupils learn.

- (2) By a syllabus - for any one subject or course of study - I mean an account, set out in considerable detail, of the content of what is to be studied.

5. "Better Schools" in effect describes a policy to achieve a national curriculum by agreement. At the level of generality described in 4 (1) the education service now generally agrees with our White Paper about the range and balance of subjects up to age 14, although agreement still has to be achieved about what subjects should be compulsory and optimal for age 14-16. I also expect to secure broad agreement within the service on the objectives of each subject. We are still a long way away from agreed attainment levels at various ages, but at least for age 16 we are making progress through the development of the GCSE. There is general agreement that all pupils should

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have a broad and balanced education, with strong practical elements, but taught so as to differentiate for ability and aptitude. The reality, as we know, falls far short of these objectives.

6. National syllabuses - which my colleagues have in mind - are and have always been, found widely, with differences of detail, on the Continent. They have advantages. For example:

- (1) What is taught can reflect best practice and national needs, and can be determined in the light of discussions between all concerned - the Government, teachers, employers and parents.
- (2) Schools, the pupils, parents and employers know what the task of the schools is. Schools thus have clear goals and can be held accountable.
- (3) Pupils' progress can be assessed against clearly defined yardsticks - have they done the set courses, and have they learnt what the courses contain?

and when children move from one area to another they are still in the same syllabus.

7. National syllabuses also have disadvantages. For example:

- (1) Standard courses risk not stretching the able and being too difficult for the least able. For example, in France some pupils hardly get beyond the primary school, because they have to repeat years several times. The Germans partly avoid this by a 3-tier selective system from age 10.
- (2) There is less scope or incentive for innovation and initiative by individual schools and teachers - the "Ministry's wisdom" makes for inertia. When that wisdom requires a substantial change, it is hard to wrench teachers away from what they have been conditioned to teach.

They are fairly basic. They don't include extra courses for the able.

They are only basic - plenty scope for a drop

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8. Even if we went for national syllabuses we would do well to avoid the additional step of preparing, or approving, a selection of standard text-books. Some European countries whose educational achievements we respect combine standard syllabuses with approved text-books, but not all do this. Text-books cannot cover such syllabus elements as oral and practical work. Moreover we can here rely on the market. In this country we have effective educational publishers who would produce the necessary text-books once national syllabuses were prescribed.

9. A system of national syllabuses is more likely to raise standards for the benefit of the children and the nation if it is not confined to a core of say English, maths, science and a foreign language. The schools should develop children's potential, and prepare them adequately for adult life, responsible citizenship and employment, including self-employment. So they ought also to teach all pupils history, geography, RE, design, craft, technology, and such things as art and music; nor can they dispense with physical education. Our successful European competitors oblige children to follow such a broad curriculum; indeed they keep the curriculum broad post-16 in a way which we could one day emulate with advantage. There is also evidence that concentration on a core, particularly in the primary schools, is less effective in teaching the core than supporting the core by a broad curriculum. The children learn the core better when they apply it to a wide range of subjects across the curriculum.

10. National (or regional) syllabuses are as foreign to the English school tradition as they are natural to the French or German. To introduce them in England would be controversial, and seen by many as dangerous centralisation. They could be abused by the wrong sort of Government. They could not be introduced in England by agreement. I do not believe that they could be effective in practice without agreement by at least most heads, teachers and LEAs. To attempt to impose them we would need, at the very least:

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- (1) to legislate, reversing the provisions of our current Education Bill, to deprive the LEA, the governing body and the head of responsibility for what is taught: that responsibility is now shared by these three parties for most schools and vested in the governors for aided (church) schools. The parties would be required to establish syllabuses prescribed in regulations made by the holder of my office. (The syllabuses for religious education could, as now, be agreed locally by the LEA, the churches and the teachers).
- (2) To determine syllabuses centrally. Teacher hostility to imposed centralisation would make it difficult to secure much-needed professional co-operation in a gigantic task, not least in solving the problem of differentiation (see 7 (1) above) and attainment levels for pupils of different abilities. Decisions would have to be taken by Ministers on each syllabus.
- (3) To enforce adherence by each school to the prescribed syllabuses. Hostile LEAs could not be trusted to do this without further checks by HM. Inspectors. Existing DES manpower would not suffice.
- (4) To deal with non-compliance through the default powers of the holder of my office - directions enforceable by mandamus.
- (5) To find means eg through extra payments, to secure sufficient teachers in such subjects as maths and physics, not only nationally but locally. National syllabuses put an obligation on the Government to deliver the teachers to teach it in every school.

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11. Most of these difficulties would arise because the national syllabuses would have been imposed. Progress towards national syllabuses is possible, though more slowly, if the holder of my office can proceed by agreement. For example the new GCSE syllabuses will be constrained by national criteria which I promulgated after extensive discussion with all concerned in the pursuit of the widely shared objective of a single 16+ examination. But national syllabuses which are imposed from the centre do not go with our diffused system. As explained in Annex A, that system gives substantial powers to the holder of my office, but limits the extent to which he can impose his will on matters of detail. The default powers available to him are rarely used and do not enable him to take over the functions of LEAs or governing bodies. They are too clumsy to be used to enforce compliance by particular schools with a particular syllabus, except possibly as a last resort. They are designed for a regime in which the holder of my office does not assume the crucial function of determining what is taught in each school. That function is supported abroad by other features of a centralised system. In short, if the holder of my office is to be able to control the syllabuses of schools, then he will need the other powers held by his opposite numbers in France and Germany: the schools need to be his schools, he needs to be their paymaster, and he needs to employ all the staff in them. Broken-backed nationalisation will not work. It has to be thorough-going.

Parental choice

12. Greater parental choice is an objective in its own right. It gives parents the dignity that goes with making responsible choices. If the choice is made casually or negligently at first, there is still a hope that the experience of making choices leads to their being made more responsibly. But less than responsible choices may conflict with the interest of the child, as may responsible choices which are not well-informed; and parental perceptions of education may conflict with national needs eg over learning foreign languages, or the value of practical and applied work.

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13. For many parents, a genuine choice of schools is impractical. Outside our cities and larger towns, geography and access problems mean that there parents can choose only one, or at most two, primary and secondary schools. Such schools are monopoly or quasi-monopoly providers. Elsewhere, spare places, in themselves inefficient, serve to give parents a choice, which is made less valuable if all the schools in question are mediocre or poor; the 1980 Act guarantees that choice, except in the many cases where the LEA, or the governors of an aided (church) school, use certain powers to restrict entry, so that not all the physically available places in a popular school are filled, to the advantage of less popular schools. Moreover popular schools are not normally enlarged.

14. In principle, this state of affairs can be altered in two ways:

- (1) We could simply require parental preference to be met up to the school's physical capacity (or even require capacity to be enlarged to meet parental preference) without changing the existing responsibilities of LEAs and governing bodies as regards finance. That would be compulsory open enrolment. It would require legislation.
- (2) We could make the financing of the school depend on its ability to attract parental custom. At present the LEA has wide discretion over how much it spends on a school: it need not, and often does not, adjust the amount available for spending on or by the school to correspond with an increase or decrease in the number of pupils. We could introduce the quite new principle that the school's income is determined by the number of pupils attending it. It is an administrative question whether one gives effect to the principle through a piece of paper (a voucher) given to the school by the parent which the school then encashes from its paymaster; through a notional

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"credit" to the school for every child on its register; or through a per capita payment to the school by the paymaster for every such child. Irrespective of the administrative method used, giving effect to the principle takes us into a credit system and would require long and complex legislation.

Compulsory open enrolment

15. Compulsory open enrolment (14 (1)) should probably not go as far as requiring physical enlargement of a popular school. That would be expensive and enlargement beyond a certain point would so change the school's character that it would no longer deserve to be, or be, popular. Simply requiring the school to be filled to its physical capacity in response to parental preferences would help to satisfy those preferences - a valuable gain - but achieve little else. The school might gain little or nothing - indeed a larger number of pupils might be unwelcome to the governing body and the staff. The LEA would have to finance the pupil increase at the popular school and be free to adjust, or not, its financial support for the now emptier less popular schools or to close one or more of these.

16. Compulsory open enrolment would have to respect restrictions on school admission based on selection by ability or membership of a denomination. It may not be possible wholly to overcome the technical difficulties of defining physical capacity. For example many older schools have classrooms large enough to take classes so big as to be unmanageable: we would have to stipulate maximum class sizes for the calculation of physical capacity and this could have uncomfortable expenditure repercussions in other contexts. It may also be difficult wholly to overcome obstruction by hostile LEAs anxious to preserve unpopular schools. Extra expenditure seems inevitable where a less popular school cannot be closed but costs per pupil there rise.

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Per capita finance (credit system)

17. Making a school's income depend on parental custom (14 (2)) would be a profound change in the cities and larger towns where the schools do not have a monopoly or quasi-monopoly. (Where they do, the parents do not have the weapon of withdrawing their custom). Where schools are in effect required to compete for custom, it is they, not the LEA which maintains them, which are the producers on whom the customer's power bites. But at present, such a school's financial response to changes in parental custom is determined by the LEA: the LEA may or may not increase or decrease what is spent on the school so as to correspond with the change in parental custom; as a result the school is not necessarily rewarded or penalised for its success or failure in attracting that custom, nor does the school alone decide how to deploy the total sum that the LEA decides to spend on the school. If every maintained school is to have its income determined not by the LEA, but in effect by the parents, then it has to become, as aided schools already are, legally independent of the LEA, and cannot remain a mere agency or extension of it. Since the schools cannot charge fees, their status will be akin to charitable status ie the governors of the school will be its trustees. It will be difficult to find trustees for some 25,000 separate schools for the highly responsible, and often hazardous, public duty of satisfying parental custom. It is scarcely conceivable that the trustees would be willing to discharge it unless they had the necessary powers so to conduct the affairs of the school as to be able successfully to compete for parental custom. They would need to own or control (via a lease) the premises and employ the staff, as the governors of aided schools now do; additionally they would have to be free to manage their budget eg not have the staff complement controlled by the LEA (as now), and free to determine staff salaries, and, subject to minimum standards set by the holder of my office, the curriculum. The trustees of every school would have to have considerably more independence

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than aided schools now have: the limited independence vis-a-vis the LEA of aided schools is compatible with the present LEA-managed school system only because aided schools are a minority and the LEA has much closer control over the majority of the schools it maintains.

18. Schools which depend on parental custom should in principle be able to offer the type of education they believe would secure that custom and be able to restrict admission on the basis of ability or on denominational grounds. It is an open question whether, subject to its admission criteria, a school should be able to restrict numbers as popular independent schools now do or whether parents could be given the right of admission up to the limits of physical capacity.

19. I remain attached to the idea of a school system driven financially by parental custom. The present system is performing so badly that radical reform is needed, and it is philosophically attractive to put parents in the driving seat and require schools to compete for custom (even if we had national syllabuses the schools would still compete on how they were taught, on discipline, ethos etc). But I have come to the conclusion that such a change is not at present feasible for a number of reasons.

20. First, hostility: the change would be bitterly opposed by our political opponents who would play on the public's understandable fear of the unknown. I believe that local government would be bound to oppose a change which so radically reduces its power as a provider and would deprive LEAs of many of their assets (with or without compensation). I fear that the churches and other voluntary bodies will oppose changes which bring them greater insecurity. The change would require long and complex legislation. Most teacher unions would of course be hysterically hostile. The transition of the new system would be difficult and require time. We would, for example, need to find trustees for 20,000 schools (only the 5,000 aided schools already have trustees). I see no scope for easing in the change with experimental projects.

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Given their controversial intention, their success would be put down to untypically favourable treatment - indeed it might depend on such treatment - and their failure might be due merely to organised obstruction eg by the teacher unions.

21. Second, the change would be expensive. It would be hard to fix the value of the per capita credit at a level we could afford. There are objective reasons why unit costs per pupil should vary not only with age, but also with the size and physical characteristics of the school and the type/background of pupils eg children from deprived backgrounds or with relatively minor physical or mental handicaps cost more to educate. The value of the credit could be a matter of life and death to the school. Too tough a financial regime would cause some trustees to throw in the towel. I foresee expensive levelling up. Moreover, since the schools would have to match their expenditure to a fluctuating income, they would need a start-up fund - a large, one-off addition to public expenditure. Capital expenditure would not as now be planned by the paymaster but would tend to arise in response to fluctuations in parental custom. The schools might not be able to borrow on their own security. A State Agency (see para 23) would probably have to meet all capital requirements on the basis of separate negotiations with each school. I fear an uneconomic use of capital resources. Whether the new system would eventually cost more than my proposals would depend on the details of each alternative. But I am sure that the transition to it could not be achieved without much extra expense.

22. Third, it might often be as difficult as it is now to raise standards, eg where the school has a monopoly, or the parents are unconcerned. Nationally necessary subjects like foreign languages might not be taught. Those schools which attracted too little custom might have to stay open because no other schools were near enough or they were all full. There would, as now, be struggling or otherwise unsatisfactory schools.

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The speed with which they could be made satisfactory would depend on how quickly the trustees could make improvements eg by replacing the head, or be themselves replaced by a State agency acting as a safety-net which might either find new trustees (if these were ready to serve), take over the school, or close it and find places for the pupils concerned.

23. For it is clear that only a State Agency could carry out certain functions which arise from the requirement that schooling would continue to be compulsory 5-16 and free up to age 18. We could not get rid of an educational bureaucracy. A State Agency would be needed for a range of financial and supervisory functions. In particular:

- (1) Determining and administering per capita finance, securing financial propriety in receiving schools, and rescuing schools which could not make ends meet.
- (2) Responsibility for capital expenditure.
- (3) Approving new schools or changes to existing schools. Such a control is needed because of the financial consequences and to protect parents eg from abuse of a geographical monopoly.
- (4) Monitoring and enforcing minimum standards.
- (5) Securing places for and attendance by all children of compulsory school age, including the provision of last-resort schools for children not admitted by any school for whatever reason.
- (6) Providing special schools.
- (7) Responsibility for teacher training.

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I do not believe we could safely entrust hostile LEAs with the functions which would have to fall to the State Agency - the scope for obstruction and injustice to individual schools, including church schools, would be too great. The functions would have to be carried out by the DES or a new quango appointed by the holder of my office. Local government would be left with few of its present educational functions; there would be a manpower shift from local to central government.

Devolving decisions to the level of the school

24. In a system where the school's fortunes depend on its ability to attract parental custom, decisions affecting that ability are naturally taken by the school itself. But in a system where the school's income is determined not by the parents but by the LEA, we have to find the optimum balance between entrusting decisions affecting the school to the LEA which is accountable to its electors for managing public resources, and to the school which is better placed than the LEA to judge how the resources allotted to it are best deployed for the benefit of the particular pupils at the school, and in accordance with the wishes of their parents. The balance is struck differently in county schools where the school is legally an extension of the LEA and in voluntary schools where the school does not belong to the LEA and the governing body may, for example, employ the staff.

25. Our Education Bill leaves the present balance as it is for aided schools, where the governing body is responsible for the premises, the character of the school, the admission of pupils, and the curriculum, and for appointing and dismissing staff on the basis of a complement laid down by the LEA and subject to a LEA veto on which teachers are appointed and dismissed. For other types of school the Bill reforms the composition of the governing body so that it is not longer dominated by the LEA and parents are given more representation. In addition the Bill:

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- (1) Makes the governors responsible for the conduct of the school.
- (2) Makes the head responsible for discipline under the governors' supervision
- (3) Gives the governors and the head a say in staff appointments and dismissals, final decisions resting with the LEA as employer.
- (4) Makes the head responsible for determining the curriculum, having regard to the policy of the LEA and the governors, and for organising it.
- (5) Requires the LEA to delegate to the governors responsibility for expenditure on books and equipment within a sum determined by the LEA; and empowers the LEA similarly to delegate financial responsibility for other items. I intend to encourage LEAs to use this power widely.

I think we should give these new arrangements a try. They establish a healthy balance at the level of the school between the lay governors and the head; they permit the LEA, as employer and paymaster, to manage resources in the interest of all pupils in its area and of the local electors; they allow each school to have a life of its own and to take detailed decisions at the school level; and they protect the head from detailed interference in the curriculum by either the LEA or the governors. It will work well if the LEA, governors and head are good; if one of the parties is bad, it will give considerable protection to the others. My proposals for further change will oblige the LEA to perform its functions better.

Middle ways between maintained and independent schools

26. Whatever our success in improving schools in the LEA-maintained sector, we need to give parents more alternatives to it.

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My proposals included the idea of Government-maintained (GM) schools which would provide an escape route within the State sector. GM schools would be free because the holder of my office would be responsible for maintaining them. They would be owned and managed by independent trusts or entrepreneurs, providing education good enough to deserve to be financed by the holder of my office. But we need in addition to do something for those parents, particularly from the inner cities, who are prepared to make some payment for their children's schooling, but who cannot afford the fees normally charged by independent schools. We want a widely available "middle-way" system between the State sector and the fully independent sector.

27. I assume that, whatever happens, independent schools should remain free to operate without any State assistance, direct or indirect, (other than the help available to all charities). Many independent schools, particularly the successful ones, will not wish to participate in any scheme involving Government money, except perhaps to a token extent, as is now the case with some schools participating in the Assisted Places Scheme (APS).

28. We have made a start with the construction of a middle-way system through the introduction of the APS, which in some ways does the job of the former Direct Grant (DG) scheme, whose destruction we all regret. Most former DG schools are now in the APS. The APS is in effect a scholarship scheme, which assists with fees a set quota of pupils at selected independent schools. When it has reached its present planned capacity in 1987, it will assist some 35,000 bright pupils aged 11-18 with fees in 226 schools at a cost of about £50m a year. About 10% of the places are for boarders but assistance with fees excludes the cost of boarding. The schools have to admit at least 60% of their quota of places from maintained schools and currently 70% of quota places are filled by pupils previously at maintained schools. Like the DG scheme, the APS contains only well-established secondary schools of high quality (the DG schools were grammar schools). But the APS differs from the DG scheme in two important

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ways:

- (1) In the APS schools only a proportion of pupils are subsidised under the scheme: in the DG schools, about half the pupils had free places (financed by the LEA) and the remainder paid a subsidised fee as a result of a DES grant to the school.
- (2) In the APS schools, fees are reduced on the basis of a tough means test: in the DG schools the free places and most of the subsidised places were not means-tested.

29. We could enlarge the middle-way system in three ways:

- (1) We could expand the APS.
- (2) We could reintroduce DG schools, probably on a somewhat different basis eg without the participation of the LEA.
- (3) We could do (1) and (2) together.

I believe that we should choose between these three options on the basis of our view about which of them is most likely to increase the number of middle-way places ie places at independent schools of acceptable quality which would be filled by the children of parents willing to pay something for this alternative to the maintained schools in their area.

30. In making our choice, we need to remember three points:

- (1) We would be politically vulnerable if we found extra resources for a middle-way system unless we could also show that we were being effective in improving the maintained system. But provided we can show this, we ought, I believe, to try to expand the middle-way system.

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- (2) The political risks for those participating in a middle-way system are substantial and come on top of the financial risks (including capital and start-up costs). Willing participants in an enlarged middle-way system may be hard to find on the scale we would wish. Expanding the APS, under which the school depends on Government subsidy only in respect of a proportion of its pupils, is likely to be attractive mainly to existing schools. Few new independent schools are likely to be set up because of the prospect of attracting a quota of assisted places. To bring about the creation of new schools we would do better to reintroduce DG schools whose promoters will have some prospect of Government subsidy in relation to all their pupils. These considerations point to our going both for an expansion of the APS and for the reintroduction of DG schools.
- (3) There will be "dead-weight" costs. Some of the subsidy will go to those who would have been willing to use the independent sector without it. The present dead-weight cost of the APS cannot be quantified but is likely to be substantial. Until the middle-way system provides for a large number of children, the relief to the maintained sector will be too marginal to lead to significant offsetting savings there.

Expanding the APS

31. Since an expansion of the APS would be mainly at existing independent schools, the limits of possible expansion look as follows:

- (1) If the scheme remained a scholarship scheme for age 11-18, we might be able to create a further 35-50,000 places - the participating schools would not want all their places to be in the scheme.

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- (2) If we admitted to the scheme schools of no more than acceptable quality we might add a further 25-50,000 places for age 11-18.
- (3) Extending the scheme to the primary phase might bring in up to a further 17,000 places.

If we used all three methods of expansion the scheme might provide a maximum of 150,000 places (including the 35,000 already planned for in the existing APS).

32. APS places cost more per pupil than places in the maintained sector; their Exchequer cost is kept to about the cost of an equivalent maintained sector place only by a tough means test for every place; the upward thrust of independent school fees may make it progressively harder to contain the Exchequer cost per pupil. We would be politically vulnerable if that cost exceeded the equivalent maintained sector cost. I conclude that an expansion of the APS would have to be on the basis of the present means test, with an ultimate control over fees by the holder of my office. On this basis maximum expansion (150,000 places) might cost an extra £160m a year (see Annex B).

33. The geographical pattern of existing independent schools does not correspond very well with the need for a middle-way system. Some of our cities, for example, have few independent schools which have joined the APS or might join it; independent primary schools are situated predominantly in certain rural areas and cater mainly for boys.

Reintroducing DG schools

34. To reintroduce DG schools would be a bigger undertaking than expanding the APS, because it would have to be done mainly

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by creating new schools. But the greater challenge of a fresh start also widens the range of opportunities. We could seek to concentrate new schools in the areas where they are most needed. We could be flexible about their character - some might be selective, some non-selective, some denominational. We could choose between new primary and secondary schools, or have both. Politically and financially we would probably be wise to limit the Exchequer cost per pupil to the reasonable cost per pupil in an equivalent LEA-maintained school; and to exercise some control over fees. I think it inevitable that a new DG school, which has to meet its capital and start-up costs, would cost more per pupil than an equivalent LEA-maintained school - perhaps 25% more. That excess might be met by fees ie an average fee of about £200 a year for a primary place and £300-400 a year for a secondary place. We could then choose whether the assistance per pupil should be a flat rate, or means-tested. If it were means-tested, the top fee would be higher than the estimates quoted above; and we could use the extra fee income either to reduce Exchequer assistance or to allow the schools to spend per pupil more than the suggested 25% above what is spent in State schools.

35. In principle, there is no limit to the number of DG schools which could be created. In practice the limits are set by a number of factors which interrelate:

- (1) What we can afford.
- (2) How generous the financial regime needs to be to mitigate the political risks for those willing to set up DG schools.
- (3) How far we want the scheme to contain only high-quality (perhaps selective) schools.
- (4) How far we want the scheme to embrace primary as well as secondary schools.

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£85-110 million

Simply as an illustration, Annex B provides some cost estimates on the basis of 25,000 primary and 75,000 secondary places (100 primary schools with an average of 250 pupils, and 100 secondary schools with an average of 750 pupils).

36. Both the expansion of the APS and the reintroduction of DG schools are possible without primary legislation (although it would be technically safer if extending the APS to the primary phase were backed by legislation) with a modest start in September 1988 (conceivably for the APS extension in September 1987). Existing regulation-making powers could be used. But we would reduce the political risk for participating schools if we entrenched a new DG scheme in legislation, as we did for the APS.

Conclusion

37. This paper considers possibilities not recommended in my proposals. I believe that:

- (1) Imposed national core syllabuses are not feasible. But we can by agreement secure a broad national curriculum in accordance with our present policy; and, if we proceed by agreement, there is a prospect of harmonising syllabuses in the longer term.
- (2) Making schools dependent on parental custom (para 14 (2)) is not at present feasible; but we should consider further a compulsory open enrolment scheme (para 14 (1)).
- (3) We should give a try to the allocation of decision-making in our Education Bill.
- (4) The middle-way system should be strengthened: there is scope for doing this via the reintroduction of DG schools and an expansion of the APS, provided we also tackle the maintained sector.

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(5) My proposals set out in paragraphs 24-26 of my paper dated 26 March should be further considered.

38. I am sending copies of this paper to the Lord President, the Chancellor of the Exchequer, the Home Secretary, the Chancellor of the Duchy of Lancaster, and the Secretaries of State for the Environment and for Employment.

KJ

12 May 1986

Department of Education and Science

Powers for the Secretary of State in relation to maintained schools

1. The Secretary of State, by virtue of the largely declaratory provisions of section 1 of the Education Act 1944, has a general duty "to promote the education of the people of England and the progressive development of institutions devoted to that purpose, and to secure the effective execution by local authorities, under his control and direction, of the national policy for providing a varied and comprehensive education service in every area". Other provisions in the Education Acts which relate to the Secretary of State's functions define and limit this general duty.

2. The main duties and powers assigned to the Secretary of State in relation to schools maintained by LEAs are:

- (1) Changes proposed by LEAs and governing bodies in the pattern of schools (eg closures, amalgamations, significant changes of character of particular schools) require his approval: but he cannot initiate such changes.
- (2) He has power to make regulations in respect of certain matters concerning schools eg to prescribe the length of the school day and year.
- (3) He has power to make regulations about the qualifications of the teachers in the schools.
- (4) He has in effect a general duty to secure an adequate supply of trained teachers for the schools and a power to ensure that only teachers trained through courses approved by him are employed in the schools.

Possible change in legislation?

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3. Responsibility for what is taught in the schools rests with the head, the governing body and the LEA in a way which varies widely from school to school in accordance with the school's articles of government. The Education Bill 1986 provides for a better, clearer and more uniform distribution of this responsibility between these 3 parties. But the Secretary of State cannot exercise the powers and duties in para 2 above without having a view about the kind of curriculum to be followed by the schools. He therefore needs to have a policy for the school curriculum and has a locus in suggesting how LEAs, governing bodies and heads should exercise their functions in relation to the curriculum

4. The Secretary of State's general duty to "control and direct" the functions of LEAs (see para 1 above) is not, except marginally, supported by financial powers. It is however supported by default powers. These are limited as follows:

- (1) The Secretary of State may direct a LEA or governing body to carry out a statutory duty if he is satisfied that it is failing to do so.

- (2) He may direct a LEA or governing body to refrain from acting "unreasonably" (ie arbitrarily, or as no reasonable LEA or governing body would act) if he is satisfied that it is acting thus or proposing to act thus in the exercise of an educational function.

Directions under (1) and (2) are enforceable by mandamus. The Secretary of State does not have the power to take over the functions of a LEA. That is why, for example, it was necessary in the case of Liverpool in 1985 to consider taking fresh powers to carry out that LEA's functions through commissioners.

MIDDLE WAYS: COST IMPLICATIONS

1. The costs of any option under this heading depend crucially upon the number of takers for it. The number of takers will partly depend on the terms of the scheme or schemes on offer to them.

Assisted Places Scheme

2. The appeal of the Assisted Places Scheme is likely to be very much stronger for established schools (and stronger for them than a direct grant scheme) than it would be for new schools. The total number of established independent schools therefore places a more or less natural limit on its expansion; and if the scheme is to be confined to schools of an acceptable quality (whether academically-oriented or otherwise), there is a further natural limit to its expansion. The costings below assume that expansion is confined to schools of established quality.

3. The severity of the present means test keeps costs low but also by its nature limits the number of pupils to whom assistance can be extended. A relaxation of the means test would bring more pupils in scope, but it would of its nature be a less cost-effective use of resources. The present costings are based on the existing means test.

4. The existing cost of the scheme and the estimated additional costs of expanding it (without allowance for the implications for maintained sector costs) are as follows:

	Pupil numbers	Cost per annum (£ m)
<u>Existing scheme</u>	35,000	50
Maximum expansion on scholarship basis {	38,000-48,000	50-70
Maximum ^{further} extension in secondary field { ^{in secondary field}	25,000-50,000	35-70
Maximum ^{further} extension to primary age range { ^(non-scholarship)	17,000	20
<u>Total additional pupil/costs</u>	80,000-115,000	105-160

Direct Grant Scheme

5. A direct grant scheme is likely to be strongest in its appeal to new schools, and the number of possible takers is by definition uncertain. Important factors will be the level of per capita subsidy, whether it is means-tested or not, and the extent of fee control.

6. The costings below assume, purely for illustrative purposes, that both 100 primary and 100 secondary schools (with an average of 250 and 750 pupils respectively in each) join such a scheme. Two variants are considered:

- i. a flat rate per capita subsidy, equivalent in amount to the average unit cost of comparable provision in the maintained sector;
- ii. means-tested fee remission on the same scale as for the APS, but with overall fee levels limited to 25 per cent above the average unit cost of comparable provision in the maintained sector.

In both cases an amount has been added on for transport, meals, uniform etc, but the costings are purely for recurrent vote expenditure and once the scheme is fully operational: they make no allowance for a phased build-up, for capital costs (either on start-up or subsequently) or for the impact on the maintained sector. On this basis, the costs of 100 primary and 100 secondary schools might be:

	£ millions
<u>Primary</u>	
i. flat rate subsidy	20
ii. means-tested fee remission	15
<u>Secondary</u>	
i. flat rate subsidy	90
ii. means-tested fee remission	70

A combination of APS and DG

7. The number of takers available for either option would be likely to be different if both were on offer rather than only one. Although established independent schools would on the whole be likely to prefer the APS type of arrangement, some might opt for the DG model; and it is equally possible, though more unlikely, that some new schools would prefer the APS to the DG model. Whilst with that proviso the APS costings can be regarded as firmly grounded, the DG ones, even when free-standing, are purely illustrative. A realistic costing combining the two models is not at present possible: all that can be said is that there is likely to be a degree of overlap between the two.