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DEPARTMENT OF EDUCATION AND SCIENCE
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FROM THE SECRETARY OF STATE
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Prime Minister 2
I have asked DoE
to let me know what
effect this would have on
Barnet rates.

The Rt Hon Nicholas Ridley AMICE MP
Secretary of State for the Environment
2 Marsham Street
LONDON
SW1

October 1986

DRS
2/10.

Amthor

Please ask
Nicholas Ridley 2
to contact
me on
urgently

EDUCATION OF NO AREA PUPILS - FUNDING ARRANGEMENTS

I promised to let you know my decision about future arrangements for pooling the cost of educating no-area pupils in order that you might take a decision about their treatment in the assessment of grant-related expenditure (GRE).

A no-area pupil is one who does not belong to the area of any local education authority (for example the children of short-stay servicemen). At present 45% of the cost of educating these pupils is pooled, and thus shared between all local education authorities. But they also count for GRE purposes, so that authorities in effect get 145% credit for the cost of educating them. This is an obvious anomaly and it seems sensible to correct it by raising the poolable percentage from 45% to 100%, and discounting the pupils from the GRE. For most LEAs, the effect of this change on their finances would be small but it would cost Barnet, which has an abnormally high number of no-area pupils, perhaps as much as £2m, and would increase ILEA's income by about £3m. The latter effect comes about because ILEA gains as the poolable percentage is raised, but has no block grant to lose from the discounting of the pupils for GRE purposes. I can, however, take this increase in ILEA's income into account in setting the maximum for ILEA's precept next year and intend to do so.

I have considered carefully whether to delay this change for a year so as to give LEAs who would lose by it more adequate notice and because, if we do proceed for 1987-88, we shall have to use imperfect data from the GRE assessment. For legal reasons, however, I believe it would be rash to delay. All the signs are that the ILEA are preparing to challenge a decision to defer in the Courts and I am advised that

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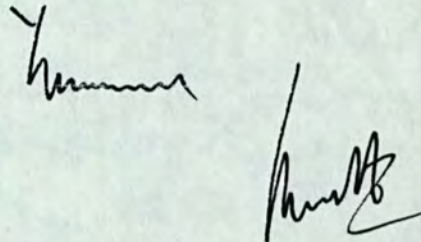
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there is a serious risk that such a decision would be declared to be unreasonable. I have a duty to make regulations applying pooling to expenditure on no-area pupils and those regulations may provide that only a specified proportion of such expenditure shall be poolable. However a decision to specify a given proportion must satisfy the legal test of "reasonableness". The ILEA would argue that the proportion of 45% is unreasonable because it is based on an irrelevant consideration - the pre 1981-82 Rate Support Grant arrangements. We have no effective answer to that argument.

We have already lost one pooling case brought by the ILEA at extra cost to the Exchequer and with disruptive consequences for local authority financing with which we are still grappling. It would be foolhardy to run the risk of another High Court defeat on an issue where in principle we too favour change. I conclude that we should make the pooling and GRE changes in 1987-88. I hope that your Department will bear with mine if it becomes necessary to make some corrections to the adjusted pupil number data used for GREs at Supplementary Report stage. I shall consult the local authority associations on the necessary amendment to the pooling Regulations.

I am sending copies of this letter to the Prime Minister, to the members of E(LA) and to Sir Robert Armstrong.

Two handwritten signatures in black ink. The signature on the left is written in a cursive style and appears to be 'Thomson'. The signature on the right is also cursive and appears to be 'Armstrong'.

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