

ccBG

ccBI

PRIME MINISTER

PUBLICITY OF TEACHERS' PAY

I do not see that Robert Armstrong's guidance in his letter below ought to cause David Hancock problems. The key issue, which I daresay David Hancock will have in mind, is that £200 million of taxpayers' money, through the RSG payment, will be directly involved in helping to finance the settlement. There is thus a strong taxpayers' interest in getting the settlement approved quickly and smoothly. Expenditure of relatively small amounts of taxpayers' money for the publicity campaign is therefore a good investment for the taxpayer if it helps acceptance of the pay deal.

If the DES have any "propriety" difficulties, the meeting at 1500 on Monday provides an opportunity to sort them out.

NW

Mr David Hancock has decided to go ahead with the advertising.

N.L.W.

N. L. WICKS
31 October 1986

In answer or ARN
sub 3/11

CAJ(62)

1 Duty Clerk - PL copy to
BI.

2. Mr Nargrave - PL let me know before the 1500 meeting whether DES have problems. N.L.W

MR NICKS
cc BT
cc BT

70 WHITEHALL, LONDON SW1A 2AS

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From the Secretary of the Cabinet and Head of the Home Civil Service

Sir Robert Armstrong GCB CVO

Ref. A086/3195

31 October 1986

Dear David,

The Cabinet yesterday invited your Secretary of State to consider some form of direct approach to individual teachers to inform them of the details of the Government's proposals on teachers' pay. You will have to consider whether this would be a proper use of public funds.

The conventions on this matter were set out in a note by the Cabinet Office on Central Government Conventions on Publicity and Advertising prepared for the Widdicombe Inquiry. This note was dated 25 April 1985, and was, I think, published in connection with the Widdicombe Inquiry's Report, and copies --- were placed in the Library of the House of Commons. I attach a copy herewith.

There is no precedent for a letter or leaflet to be sent to all teachers by the Department of Education and Science on a matter of this kind. The nearest thing to a precedent appears to be advertisements inserted in nursing journals and in the national press about National Health Service pay offers in 1982. These advertisements cost £83,000. The Advertising Standards Authority ruled that the advertisements were political and therefore not within the scope of its Code. There was no more than muted criticism of the use of public funds for these advertisements.

A direct mail approach to teachers would go well beyond this, and would raise a number of issues which you would need to address:

1. Teachers are not (as NHS staff are) employees of the Crown.

Sir David Hancock KCB

/2. Though

2. Though the information would clearly and directly affect the interests of teachers, the proposals have as yet neither the status of an agreed settlement nor the force of law. Where rights or entitlements are created under legislation, the general rule has been that public funds may be spent on drawing the attention of those directly affected to their new rights or entitlements once they are approved by Parliament.

3. A direct mail approach would be seen as a deliberate decision to go over the heads of both the employees and the unions to the individual teachers. As such it would be a very political and no doubt very controversial move.

4. Such an approach might be prayed in aid as a precedent for a similar direct mail approach to teachers by local authorities financed out of rate revenues. Even if the Opposition did not demand some sort of right of reply (financed from public funds), such an approach might become a precedent for comparable action to be undertaken at some later date by another government and paid for out of public funds.

It is for you, as Accounting Officer, to consider what you think you could justify as proper use of public funds, if you were called upon by the Public Accounts Committee to do so. For my part, I believe that you might have an arguable case for:

1. advertisements in the national press and in educational publications, setting out the details of the Government's proposals on terms and conditions of service and on pay;

2. leaflets setting out these details which could be sent out with replies to letters from Members of Parliament and members of the public, or in bulk to organisations with a clear interest, for distribution at their own expense to their members.

I believe that a direct mail approach by the Department to individual teachers at the public expense would be without precedent, and might be more difficult to justify in terms of the conventions set out in the note prepared for the Widdicombe inquiry.

I think that you would be well advised to take legal advice, if you were proposing to use data available to you for other purposes (eg pensions records or payment of pensions) as the basis of your mailing list for a direct mail approach.

You would no doubt also take your own legal advice as to the risk of a legal challenge and judicial review; the case of *Jenkins v. Attorney General* and another in 1971 could have some relevance here.

I am sending copies of this letter to Peter Middleton, Kerr Fraser and Richard Lloyd Jones.

Yours etc
Robert Armstrong

CENTRAL GOVERNMENT CONVENTIONS ON PUBLICITY
AND ADVERTISING

Note by the Cabinet Office

This note sets out the conventions which successive governments have applied to their publicity and advertising. There have been changes over the years in the type and quantity of what may be broadly described as publicity. Methods of communication change or develop, and Governments have increasingly put out more information about their policies and activities. But the basic conventions have remained. They are in general terms, but have in practice provided a satisfactory basis for the exercise of judgment in individual cases.

THE MAIN CONVENTIONS

2. It is right and proper for Governments to use public funds for publicity and advertising to explain their policies and to inform the public of the Government services available to them and of their rights and liabilities. Public funds may not, however, be used to finance publicity for party political purposes; this rule governs not only decisions about what is or is not to be published but also the content, style and distribution of what is published. This basic rule covering all Government publicity and advertising has been accepted under successive Administrations.

3. The conventions apply to both "paid" and "unpaid" publicity. "Paid" publicity includes paid advertising in the press, on radio and on television, leaflet campaigns, exhibitions etc. "Unpaid" publicity includes papers presented to Parliament as White and Green Papers and other consultation documents (which are sold to the public at prices intended to defray the costs of printing, publication and distribution), press notices and other official briefing material (all of which may nevertheless involve some cost to public funds in Civil Service costs).

4. The conventions are:

- i. subject matter should be relevant to Government responsibilities. The specific matters dealt with should be ones in which Government has direct and substantial responsibilities;

ii. content, tone and presentation should not be "party political". The treatment should be as objective as possible, should not be personalised, should avoid political slogans and should not directly attack (though it may implicitly respond to) the policies and opinions of opposition parties or groups;

iii. distribution of unsolicited material should be carefully controlled. As a general rule, publicity touching on politically controversial issues should not reach members of the public unsolicited, except where the information clearly and directly affects their interests. The level of intrusion is highest for television, newspapers and poster advertising and material delivered to people's homes, and lowest for material available only on request. The general rule is that leaflets etc may be issued:

a. in response to individual requests, or enclosed with replies to related correspondence;

b. to organisations or those with a known interest or, with the organisation's agreement, in bulk for distribution at their own expense to their membership only.

vi. costs should be justifiable. The Government are accountable to Parliament for the use they make of public funds for publicity, as for any other purpose. The Accounting Officer for the Vote concerned has a particular responsibility to the Public Accounts Committee.

DETAILED APPLICATION

5. The following paragraphs set out how these conventions are applied to the main kinds of Government publicity. Some specific examples of publicity in potentially politically controversial areas are given at Annex A.

NEW POLICY PROPOSALS

6. The main forum for the presentation and discussion of Government policies is Parliament. Major policy proposals are usually presented to Parliament as Command Papers which are sold to the public at a price designed to cover the costs of printing and distribution. Thus the cost to public funds usually consists only of the costs of preparing the text. Other proposals on which comments are invited may be set out in less formal documents in printed or typescript form. These are sometimes priced and sometimes provided free of charge. They are deposited in the Libraries of the House of Lords and the House of Commons

at the time of publication and may be sent unsolicited to those with a known interest (not as a rule to the general public, although copies may be provided on request). The public will also get information free of charge through the official information machinery (Departmental Press Offices and the Central Office of Information) by means of press notices or other briefing.

7. Command Papers, consultative documents, official press notices and briefing material may well cover matters which are the subject of party political controversy. Such material will set out what the Government is doing and what they want to achieve. But content, tone and presentation follow the conventions set out in paragraph 4. The emphasis is on exposition and the arguments.

8. Public funds have been used in recent years to supplement this kind of "unpaid" publicity in two ways:

i. **Popular versions of Command Papers.** These are simplified versions of White Papers etc which are supplied free of charge and intended to reach and answer the questions of those who are unlikely to buy or read the on-sale document. Examples are Britain's application to join the EC (1971), devolution (1976), counter-inflation (1975), buses (1984).

ii. **Leaflets dealing with typical questions.** These are handed out in place of, or enclosed with, replies to letters from MPs or the public and may be given wider distribution if appropriate and cover the main questions which may be raised about a particular policy proposal. Examples are leaflets explaining and answering points on the Government's proposals on live animal experiments (1983-84), the privatisation of British Telecom (1983) and the abolition of the GLC and the Metropolitan County Councils (1985).

9. Both kinds of publicity may be criticised, and presentation and handling are therefore looked at particularly carefully. They are usually written in a more popular style than the traditional Government papers which they supplement. But, like them, they follow the conventions on content and presentation. The emphasis is on facts and explanation rather than on the political merits of the proposals. And titles are carefully chosen to be as neutral as possible. For example the recent leaflets on abolition of certain local authorities are simply headed 'After the GLC' and 'After the Metropolitan County Councils'.

10. The justification for such publicity is that it enables the Government to explain its policies and the reasons for them to the general public in a cost-effective way, in circumstances where the traditional means of exposition - statements in Parliament and press notices - may not be sufficient for the purpose. There should be a reasonable relation between the cost of the publication and the likely cost of public funds in terms of enquiries from the public etc if it were not produced. The extra cost of printing the material (as distinct from simply photocopying it) must also be justifiable.

EXPLANATION AND DISCUSSION OF EXISTING POLICIES

11. The same general conventions apply to publicity for existing policies. Paid publicity may be used where the Government believes that a direct approach to the public is needed to give more information about particular issues and policies or to clear up misconceptions. Examples include advertising campaigns on counter-inflation policies (1975), and leaflets and films on defence and disarmament issues (since 1979) and a variety of departmental reports.

12. In such cases subject matter, presentation and handling are again critical, particularly when publicity deals with issues on which there is no consensus. The presentation of arguments and counter-arguments takes account of the need to avoid criticism that public funds are being used to disseminate party political propaganda. The emphasis is on the factual basis and exposition of Government policies rather than on partisan argument.

INFORMATION ABOUT RIGHTS, OBLIGATIONS, LIABILITIES AND GOVERNMENT SERVICES

13. This kind of publicity covers a wide range. It may follow legislation which has given the public new entitlements or obligations. It may remind the public of entitlements which the Government would like to see taken up more widely. Or it may be used to encourage the public to adopt certain kinds of social behaviour. It has been accepted under successive Administrations that the Government has a clear duty to inform the public in this way. There is no question about the public's need to be informed of their legal entitlements and obligations, and the services available to them. The Government also has a clear right to use publicity to encourage behaviour which is generally regarded as being in the public interest (eg road safety advertising). Most publicity of this kind consists of leaflets, posters and newspaper advertisements. Some of these simply provide factual information and practical advice but others need to be more persuasive in content and presentation. Similar publicity is used to explain changes in the law which affect individuals or businesses, or the work of their professional advisers, Citizens' Advice Bureaux etc.

14. There may be some sensitivity where the matters publicised are the product of controversial legislation or potentially controversial policies. Examples include "Fair Rents" (1972-73), "Right to Buy" council houses (1980-82), "Right to Buy" (1984), "Right to Buy" in Scotland (1984), and the "Switch Off Something" campaign in 1974. Care has been taken in the "Fair Rents" and "Right to Buy" cases to present the information in a way that concentrates on informing the public about the content of legislation and how it affects them. Material of this kind is justified in principle by the need of members of the public to be informed of what entitlements are available to them under legislation. In the second case, the "Switch Off Something" campaign was generally accepted as necessary because it bore directly on maintaining the life of the community in a national emergency. Its continuation during the February 1974 Election campaign was specifically agreed with the Opposition Chief Whip.

RECRUITMENT

15. Paid publicity is used extensively by the Government to recruit people in various public services. This is generally non-controversial, but the cost must still be justified.

LEGAL POSITION

16. Departments of central Government, unlike local authorities, do not rely on any specific statutory authority to spend money on advertising and publicity. Their use of publicity is covered by the principle that the Crown - and Ministers of the Crown as its agents - can do anything an ordinary person can do provided that there is no statute to the contrary and Parliament has voted the money. The safeguard is of course the Government's accountability to Parliament for all that they do and spend.

CRITICISM OF GOVERNMENT PUBLICITY

17. Government practice on the basis of the convention has occasionally been criticised in Parliament and in the press, but seems to have been subject to only rare formal challenge in recent years. Three instances are:

a. In August 1971 an injunction was sought in the High Court against the distribution of a shortened White Paper on Britain's application to join the EC. The injunction was not granted, and Mr Justice Griffiths (*Jenkins v Attorney General and another*, 1971; 115 *Solicitors Journal*, Part II p 674) "could not accept the submission that the prerogative power of the Crown to issue free information was limited....to information about Government executive action pursuant to law and excluded the power to inform the public of Government proposals....".

b. In 1973 the IBA objected to the term "fair rents" in the Government's advertising following the Housing Finance Act 1972 (even though it had been used in the legislation), and the wording had to be changed.

c. In 1982 advertisements in the press of current pay offers to the NHS, though entirely factual, were ruled by the Advertising Standards Authority to be political and therefore outside the scope of its code.

Cabinet Office

25 April 1985

CENTRAL GOVERNMENT CONVENTIONS ON PUBLICITY
AND ADVERTISING

(Evidence given to the Widdicombe Inquiry)

This note reproduces the Appendix to Annex A to the Note by the Cabinet Office dated 25 April 1985, with the addition of such information about costs as could be obtained without disproportionate expense.

I. POLICY PROPOSALS

1. Britain's application to join the European Community (1971)

Leaflets, posters, shortened version of White Paper: 5½ million copies of shortened White Paper, cost £191,000; leaflets £255,850; advertising the leaflets £86,150 (all figures to July 1971).

2. Devolution (1976)

Popular version of 1975 White Paper published as booklet. Available free at Post Offices in Scotland and Wales. 1,360,000 copies printed, cost £43,000; press advertising of its availability cost £31,300.

3. Police and Criminal Evidence Bill (1983/84)

Booklet on Government proposals, giving replies to main criticisms. Supplied free of charge on request and distributed to various interested groups. Copies enclosed with replies to letters from MPs and public about the Bill. 2,000 copies printed, cost £1,200.

4. Bus Policy (1984)

Leaflet summarising White Paper and answering main questions about the policy. Supplied free of charge on request and sent to various interested groups. Copies enclosed with replies to letters from MPs and public about the Bill. No bulk distribution, but extra copies available to MPs. 20,000 copies printed, cost £1,564.

5. Privatisation of British Telecom (1983)

Pamphlet explaining Government's aims and proposals in recently introduced Bill. Produced to deal with questions most commonly raised. Issued to organisations which had expressed interest in the Bill and in reply to MPs and public correspondence. 18,000 copies printed, cost £7,935.

6. Abolition of Greater London Council and Metropolitan County Councils (1985)

Two pamphlets explaining Government's proposals in Local Government Bill produced after Second Reading in response to requests for information about the proposed arrangements. Sent to all MPs, the press, and the relevant local authority associations. Enclosed with replies to letters about the Bill, and supplied free of charge on request. Initial print 5,000 of each pamphlet, total cost £9,600; further prints 25,000 (GLC) and 40,000 (MCCs), total cost £3,400.

II. EXPLANATION AND DISCUSSION OF EXISTING POLICIES

7. Counter-inflation campaign (1975)

Pamphlet (based on earlier White Paper) distributed to all households. Other briefing material supplied on request. Newspaper advertising beforehand. Cost of pamphlet £850,000, advertising £94,000.

8. Environmental protection (1984)

Booklet for London Economic Summit on achievements in environmental fields. 25,000 copies printed, cost £29,000.

9. Defence Policy Generally, Nuclear Defence, Arms Control and Disarmament (Continuing)

Several information booklets, pamphlets and films. Available free of charge on request. Some distribution by non-government agencies on basis that there should be no unsolicited distribution. About £20,000 was spent for the Ministry of Defence in 1984/85 on material explaining nuclear and disarmament policies.

10. NHS Pay offers (1982)

Advertising in nursing journals (offer to nurses) and national press (offers to all NHS groups). Total cost £83,000.

(NB. Advertising Standards Authority ruled that the advertisements were political and therefore not within the scope of its Code.)

11. Control of Experiments on Living Animals (1983/84)

Leaflets distributed on request and in reply to correspondence. Set out policies developed by successive Governments and answered points about the 1984 White Paper proposals. Costs £1,952 (1983), £60 (1984).

12. Civil Defence (1974, 1980/83)

Priced and free publications. Free publication distributed on request and also to local authorities for issue by them on same basis. For the two recent unpriced publications, costs were £29,068 (1981) and £600 (1983).

III. INFORMATION ABOUT RIGHTS, LIABILITIES, GOVERNMENT SERVICES ETC.

13. Switch Off Something campaign (1974)

Advertising on TV, press and radio to persuade domestic users to save electricity during the miners' dispute.

14. Fair Rents Campaign (1972/73)

Leaflets and booklets for private sector tenants explaining Housing Finance Act 1972. TV and press publicity for both private and public sector tenants. Cost of leaflets and booklets £4,000, advertising £683,000 (1972-73).

15. Right to Buy (1980/82)

Booklet explaining council tenants' new rights under the Housing Act 1980. Supplied free of charge on request. Some ordered by Conservative Central Office for distribution door to door.

16. Right to Buy (1984)

Explaining extension of rights under the Housing and Building Control Act 1984. Booklet and letter from the Minister distributed to most council tenants by a commercial organisation. TV and newspaper advertisements. Total publicity for Right to Buy was as follows:

1980/81	£655,000
1981/82	£239,000
1982/83	£76,000
1983/84	£1,340,000

17. Rates Act (1984)

Explanatory leaflet about the purpose of rate limitation and how it would work, in question and answer format, delivered to 5 million households in the areas subject to rate limitation in 1985/86 under the Rates Act. Advertisements placed in national and local newspapers. Estimated total cost approximately £420,000.

(Revised 23 May 1985).