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CONFIDENTIAL

The Rt Hon Viscount Whitelaw PC CH MC
Lord President of the Council
Privy Council Office
Whitehall
London
SW1A 2AT

16 May 1984

Dear Willie,

CORPORAL PUNISHMENT

In your letter of 30 April to Keith Joseph, which you copied to me, you asked to be informed of the outcome of my discussion with him about legislation on corporal punishment in schools. You also suggested that, if we now intended that legislation should take a different form from what we had so far advocated, the matter should be brought back to H Committee.

As you know it has, since 1968, been the general aim in Scotland that corporal punishment should be abolished in education authority schools and I have made it clear on a number of occasions, before and since the ECHR judgement, that I expected the process of voluntary abolition to be completed by the end of the current school session. It had been my intention to legislate to confirm this action and to extinguish the common law right of teachers in Scotland to administer moderate and reasonable corporal punishment. I had hoped to do so in a non-controversial atmosphere after abolition had been achieved throughout Scotland, but in March 1983 H Committee authorised me to announce my intention if it proved difficult to secure the co-operation of the education authorities.

In the event progress has been satisfactory in most authorities, though some will not meet my suggested deadline, but three - Borders, Grampian and Tayside - are proving difficult. Borders has rejected abolition, Grampian has said that abolition will be considered only if the Government allocate additional resources to meet what the authority sees as the cost of administering alternative sanctions in schools, and Tayside, whilst agreeing to abolition in primary schools, seems unlikely to extend this to secondary schools unless additional resources are allocated.

So far as minimum compliance with the ECHR judgement is concerned this has been secured in all authorities with the exception of Grampian where it is clear that nothing will be done unless the Government acts either to legislate or to provide additional resources on a scale which we cannot contemplate.

I am, therefore, reluctantly persuaded that, in order to demonstrate to the Committee of Ministers of the Council of Europe that positive steps are being taken to ensure compliance with the ECHR judgement, I must make an early announcement of my intention to legislate. It has, however, become increasingly clear to me that legislation to abolish corporal punishment would be very unpopular with many of our supporters in Scotland. I therefore propose to join in Keith Joseph's Bill so that parents in Scotland, as well as in England and Wales, would be able to exempt their children from corporal punishment in school. This can be presented as the unavoidable minimum to secure compliance with the ECHR judgement and as not incompatible with the continuation of the longstanding policy in Scotland, that of voluntary abolition. Indeed, as Keith recognises, the likelihood is that individual schools, if not the three remaining Regional Councils, will be encouraged by the difficulties of operating a system of exemptions to go further and opt for abolition.

Keith has agreed to the extension of the Bill to cover Scotland and if you and members of H Committee concur I shall proceed on this basis. My officials will go ahead with those in DES with the preparations for the legislation and an early announcement of intention.

I am sending a copy of this letter to the Prime Minister, colleagues on H Committee, the Attorney General and the Lord Advocate, and Sir Robert Armstrong.

Yours wv,
George

CC MRS TURP
MR CALLEN
MR JEFFERY
MR ULLICH
MR RUTBIRD
MR WILSON
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MR JAMESON
MR STUART
CI MR LORD
MR BASH
MR MORGAN
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