P 02809

PRIME MINISTER

OPTING OUT OF ILEA: TRANSFER OF ASSETS

[Minute of 28 July from Mr Baker]

DECISIONS

Mr Baker's minute seeks agreement to the proposed arrangements for the transfer of educational assets (land, buildings and equipment) when a borough exercises the new power to opt out of the ILEA. He wishes to include these in his general consultation paper on opting out, which he proposes to publish during August.

MR BAKER'S PROPOSALS

2. Mr Baker's main proposals are -

a. the general rule should be that all ILEA property within the opting borough should be transferred to it;

b. there would however be exceptions where the borough did not wish to inherit a particular property, or where the Secretary of State agreed to an application from the ILEA to retain a particular property;

c. opting boroughs would also be able to make a case to take over properties outside inner London which served the needs of their areas;

d. where an institution is located in more than one borough, or assets are shared across borough boundaries, they should generally pass to the predominant user, either by agreement or by order. User rights could be retained by minority users;

e. fittings, furniture and equipment should transfer with the associated property. ILEA might be required to take an inventory at least a term before transfer, to prevent removal of portable equipment, vehicles, etc.;

f. the Education Assets Board (EAB), which is being established for polytechnics, colleges and grant-maintained schools, should facilitate property transfers when boroughs opt out of the ILEA. The EAB might make arrangements for the transfer of documents, arbitrate on joint user rights, and supervise the preparation of inventories of equipment.

3. Property tranfers would be given effect through statutory instruments subject to the negative resolution procedure. The opting borough would play the main role in listing the property it needed to take over, and would be given powers to require the necessary information from the ILEA (which is unlikely otherwise to be forthcoming). The Secretary of State's main role would be as arbiter on assets shared between boroughs or outside the ILEA area, and of course in actually making the transfer orders.

MAIN ISSUES

4. Mr Baker's proposals follow the precedent established when the GLC and the metropolitan county councils (MCCs) were abolished. Those arrangements worked fairly well. The ILEA problem is different in some respects: in particular, ILEA will have a continuing role in providing education within its remaining area, and might therefore have more interest than the GLC or MCCs in retaining assets like vehicles or equipment. But there is no reason to suppose that the measures Mr Baker proposes will not be able to cope. You will probably want to approve the general approach he proposes.

5. Supervising the transfer of assets will require some staff resources. Exactly how many staff are required will depend to some extent on the willingness of ILEA Members and staff to co-operate once it becomes clear that opting out is inevitable. You might want to ask Mr Baker how many staff he expects to be involved. He proposes a limited role for the EAB. One option would be to involve the EAB more fully, and let it do most of the work. That might be more economical than having the work split between DES and the EAB. You may want to pursue this with Mr Baker.

6. Opting out is likely to lead to claims by both the ILEA and the boroughs that they need to incur expenditure on new assets. ILEA will claim that it needs to replace assets lost on opting out. The boroughs may claim that they need new assets to replace the previous use of assets in other boroughs. You will inevitably face requests for transitional financial help on this score. You will want to consider now how to respond to such claims. They could be rebutted on the grounds that -

a. with sensible reallocation of existing assets, the need for any new expenditure should be very low;

b. any unavoidable costs should be amply offset by the savings available to opting boroughs and indeed to the rump ILEA.

HANDLING

7. You will want to ask the Education Secretary to introduce his paper. The Environment Secretary may wish to comment by reference to recent experience with the GLC and MCC arrangements. The Chief Secretary, Treasury will probably want to comment on the financial implications.

J B UNWIN

29 July 1987