

PRIME MINISTER

## WIDER PARENTAL CHOICE AND INFLUENCE

1. Our Manifesto commitment ("we shall continue to seek ways of widening parental choice and influence over their children's schooling") gives us large scope. We now need to decide in principle what type of initiative we shall adopt to implement that commitment for this Parliament.
  
2. The Group which you chaired in the months before the Election cleared much of the ground. It decided that (a) we should not seek new methods to facilitate access to private schools, but (b) concentrate on the sector which offers free schooling; and that we should not pursue a radical plan for taking the generality of such schools out of local authority control. Instead the group asked me to pursue a special advisers' proposal that LEAs should be empowered to convert some or all of the schools they maintain into largely free-standing institutions with a qualified autonomy in respect of the employment of staff, premises, the character and curriculum of the school and the admission of pupils. Parental influence would be achieved by making each school's income depend on the number of pupils it attracted: for each registered pupil the school would be entitled to a "credit" from the LEA. One essential feature of this proposal is that the new-style school regime would operate only if the LEA decided to adopt it.
  
3. The advisers' scheme has been appraised jointly by officials here and my special advisers. The attached paper represents their agreed findings so far\*. Much more work would be needed to tease out all the practical problems, but the paper shows how the scheme would probably have to operate. The scheme should be regarded as a first step towards the fulfilment of long-term aims rather than as a means of ameliorating the education service within the lifetime of this Parliament! —

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*Pre Minutes*

\* I do not think you need to look at this in any great detail: it is still very much on the drawing board (and see Mr Mounts comments).  
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- (1) Since the new-style regime would, in the relevant localities, radically change the relationships between the local authority, the schools, the parents and the Secretary of State, we would require a long Bill, which could not be introduced before 1984/5. There could be no change on the ground until 2-3 years after enactment:
  - (2) We could not proceed before we had conducted negotiations with Conservative-controlled LEAs to ensure that enough of them were willing to try out the scheme to justify the legislative and political capital that we would have invested in it:
  - (3) Those LEAs who did adopt the scheme are almost certain to be responsible for schools where the need for improvement is least pressing. We would not touch the inner cities.
4. In my view these factors effectively rule out showing results in this Parliament from any scheme which entails a radical shift in the balance of power between the LEA and the schools it maintains. Before we could seek legislation, it would be essential to test out our ideas in public. The advisers' scheme stands or falls by whether it is capable of finding willing takers among LEAs: in my view, the only way of getting nearer to the answer will be to publish our proposals, once we are satisfied that they are feasible, so that LEAs can judge in the light of public discussion and controversy whether they would be prepared to volunteer for such a substantial change. Publication of such a controversial proposal would be a big political step. Before we take it, we would need to be sure that we could, if necessary, withdraw with honour and that putting the spotlight on the proposal would not damage our other policies for improving standards.
5. I would now like to consider with colleagues whether we should publish a proposal based on the advisers' scheme. We

should also, I believe, promote in this Parliament other less radical initiatives which offer the assurance of immediate gains for parental influence and choice. That they would not in themselves transform the present system would disappoint some of us. But that characteristic would at least ensure that they could be implemented well within the life of this Parliament.

6. There are two proposals, which do not require legislation, on which we can make immediate progress:

1. Parent Governors on every governing body:

Useful progress has been made on a voluntary basis in bringing in the new school government provisions of the 1980 Act on elected parents and teacher representatives. We need to go faster. Despite the likelihood of objections from the local authorities about administrative difficulties, I have it in mind to set a target date - September 1985 - by which all schools would be required by law to conform with the new arrangements.

2. Expanding the Assisted Places Scheme: A large expansion would destroy the scholarship character of the scheme which has been the basis of its success. Nevertheless on the present basis there is room for a worthwhile expansion of the scheme by up to 1000 places a year (or by 20%) at a cost rising to £5-6m a year after 5 years.

My other proposals would require fairly modest legislation which could be ready for the 1984-85 session. They are:

3. Making schools formally accountable to parents: We could legislate to require the governing body of each maintained school to give a written account of its stewardship annually to every parent, and to convene an annual meeting of parents at which these could ask questions and pass resolutions. The governors and the

maintaining LEA would be required to consider any resolutions so passed. Failure to give proper consideration could be the subject of a complaint to the Secretary of State, leading possibly to default action on his part, or could be pursued in the Courts. This procedure would supplement individuals' existing rights of complaint to the holder of my office which enable corrective directions to be made when he is satisfied that LEAs or governors have abused their powers or neglected their duties.

4. Devolution of financial responsibility to schools: The accountability of governing bodies to parents would be further strengthened if we also legislated to put a general duty on LEAs to devolve to school governing bodies (and via them to headteachers) responsibility for and the management of as much of the school budget as would be compatible with the overall exercise of the LEA's duties and subject to the efficient use of resources. The proposal would oblige LEAs to consider moving in the direction of greater financial self-management along lines which certain LEAs are now pursuing experimentally. The pressure to do so would be the greater because the exercise of such a duty could also be the subject of complaints to the Secretary of State, and action by the Courts where, for example, parents felt that the LEA was not addressing itself properly to establishing arrangements for greater devolution.

5. Open Enrolment Schemes: In the situation in which we now are I believe that we should look again at the potential of my earlier proposal to MISC 91 for securing a real extension of the right of parents under our 1980 Education Act to their choice of school. That choice is now limited principally by the costs associated with adjusting the local pattern of schools to parental demand. I continue to be attracted by legislation which would provide a new discretionary power to agree cost effective schemes with

LEAs for the expansion of popular schools and either the improvement or the closure of unpopular ones; part of such bargains would be a new specific grant to assist with the transitional costs of the consequent reorganisation. Such a discretion would be a flexible means of securing that maintained provision was organised in greater conformity with parental wishes. Although, to be effective, such scheme would require significant extra public expenditure, its direction and the total would be under our control.

7. Proposals (3) and (4) above might, I suggest, be linked. They have the advantage of applying universally. Proposal (5) would apply selectively, but could attract Labour-controlled as well as Conservative-controlled LEAs.

8. Do you think that we should pursue:

- i. further work on the advisers' scheme with a view to the public presentation of our ideas next year;
- ii. some or all of the proposals outlined in paragraph 6 for implementation as soon as possible within this Parliament?

In either event you may feel that special machinery is required to take matters forward.

9. I am not at this stage copying this minute to other Cabinet colleagues.

KJ

29 June 1983

## EDUCATION CREDITS

1. This paper describes a possible education credit system (ECS) in which, by a reduction of the powers of LEAs, maintained schools (but not special schools) would be granted a much greater degree of autonomy over admissions, curriculum, employment of staff and premises than under the present Education Acts. Such schools would, except in certain special circumstances, be funded by the LEA directly in proportion to the number of pupils registered thereat.
2. The system presupposes that LEAs adopting it would be volunteers. Many new (and unexplored) features would be needed to enable it to be introduced and operated in the area of a hostile authority. A participating LEA could apply it to the whole, or part, of its area.

## STRUCTURE PLANS

3. The ECS would be radically different from the present arrangements and needs a degree of stability once launched in a locality. The means of achieving this would be by the mechanism of a "structure plan" drawn up by the LEA concerned and submitted for approval to the Secretary of State. Once approved, the LEA would be bound by the general shape of the agreed proposals. These could be changed or withdrawn only by repeating the formalities culminating with the Secretary of State's approval.
4. Each volunteer LEA's structure plan would need to list the schools to be included in the proposed new arrangements, and describe the LEA's proposed policy on a number of related matters (eg. provision for the under 5s, school transport, etc.) and, perhaps, on other points as prescribed in Regulations. A circular would give general guidance on features normally to be expected in acceptable schemes. At least the initial

schemes are likely to be the subject of preliminary discussions before formal proposals are made.

5. Since ECS proposals would affect parents and others and be likely to raise some local controversy, they should be the subject of local consultation and open to objection by local government electors in the same way that school organisation proposals are now under the Education Act 1980. It would then be for the Secretary of State to consider an LEA's proposals on their merits and in the light of any objections received.

#### THE SCHOOLS

6. The basic ECS unit would be the school, which would need a new free-standing status. The school's objective would be to fashion its educational provision in response to demand.

But it would be financed almost wholly from public funds, and the proposed model is the charitable trust set up as a company limited by guarantee. While not strictly trustees, the members of such a company can be obliged by the Memorandum of Association to act in all respects as such. Provided they keep within the terms of the trust, their liability is limited to a nominal sum.

7. The creation of an appropriate trust for each county school involved in an ECS scheme could be made relatively straightforward by the use of a model document. In the case of voluntary (mainly Church) schools, however, problems would arise from the probable need to vary their existing individual trust deeds. In both cases, the potential complications of trust status and reversion to LEA management (see paragraph 19) need further thought.

#### THE GOVERNORS

8. The members of the company would be the governors of the

ECS school. To help smooth the transition to ECS status, the existing governors would form the first board. If any governors were unwilling to serve under the new regime, they would need to be replaced by the appropriate appointing body or, in the last resort, by the LEA. After the first year, though, the new constitutions would come into force.

9. Since ECS schools would be financed mainly by the LEA and in view of its continuing responsibility for ensuring that all children in the area were properly educated, the authority would appoint a sizeable minority of the governors, say 40% in the case of the former county schools. It would also be appropriate for the head teacher to continue to be a governor, and for the parents and teachers each to elect one or two of their number to serve as governors, all as provided in the Education Act 1980.

10. Former voluntary schools would need to be allowed to retain the present proportion of foundation governors. These are generally appointed by the voluntary body responsible for the school and their purpose is to ensure that the school is conducted in accordance with any trust deed relating to it and that the school's voluntary character is preserved and developed. Foundation governors are in a majority of two or three in the case of aided schools and constitute at least a fifth (and never much more - certainly not a majority) in controlled schools.

11. The remaining places on the governing body (very few in the case of a former aided school) which should provide a balance of relevant interests and expertise, could be filled either by persons elected by (but not necessarily from) the parents, or co-opted by the already appointed governors. Ministers will wish to consider the merits of the two approaches. The kind of governors needed might be readier to be co-opted

than to submit themselves to election, but election is a more open procedure. The scheme requires sufficient people of



the right calibre to be found to run effectively commercial ECS schools on a voluntary basis. The undertaking will be challenging, and that of itself might help to secure the services of appropriately motivated people, but some doubt must remain whether this is achievable.

12. The detailed constitution of the governing bodies, currently set out in Instruments of Government, would be specified in the companies' Memoranda of Association. In the same way that voluntary school instruments are currently made by the Secretary of State, each new Memorandum would need his approval. Standard forms should be helpful for former county schools. Things may be more difficult for former voluntary schools.

#### RESPONSIBILITIES OF GOVERNORS

13. Ideally, the schools' land and premises should be vested in the governors. This would already be the case for former voluntary schools. But it would create difficulties over possible reversion to LEA management (see paragraph 19). So leasehold at a peppercorn rent would be the more appropriate tenure. A suitable means of holding any property acquired from public funds after gaining ECS status would need to be devised.

14. The governors would be responsible for all aspects of running their schools with the income derived from credits: property matters; the employment of staff; the curriculum provided; and the admission of pupils. These issues are discussed in more detail below. The governors' detailed responsibilities would be set out in their company's Articles of Association. These would correspond to schools' present Articles of Government but would be simpler because there would be few matters in which the LEA had a day-to-day involvement needing to be identified as at present. The articles would still, though, need to indicate an appropriate role for the head teacher. For simplicity, it is suggested that there should initially be standard articles for each school. (It would be appropriate for these to require

the governors to hold an annual meeting at which they would account to the parents for their stewardship.) If found necessary in the light of local circumstances, these articles could be amended subsequently, subject to the Secretary of State's approval.

#### FINANCIAL MECHANISM

15. Each ECS school would be funded by its LEA through a number of "credits", the value of which would be determined for each financial year and paid by reference to the number of registered pupils at the school. It is for discussion whether this accounting arrangement would be supported by a piece of paper to underline parents' responsibilities and financial power over the schools. Credits would be based on actual pupil numbers rather than on last year's numbers so as to give maximum leverage to customer choice; this would help expanding schools but create some commercial uncertainty for all schools. It is for consideration whether, on the assumption that starting and leaving dates are staggered as at present, pupil numbers for credit purposes should vary termly or be some annual average.

#### COVERAGE OF CREDIT

16. From their credit income, the governors would be expected to finance all their recurrent expenditure (and a 15% element of any capital expenditure - see paragraph 27), namely expenditure on:-

- a. teaching and non-teaching staff (including any use of supply teachers from a pool maintained by the LEA, peripatetic teachers, school doctors, psychologists and all the costs of in-service training);
- b. books, equipment and other materials;
- c. in-school administration;

- d. any calls on the LEA's advisory services;
- e. maintenance and internal repairs;
- f. rents on accommodation leased since the school's foundation as an ECS establishment;
- g. rates and services;
- h. any subsidy of (other than free) school meals; and
- i. any supplementation of LEAs' minimum provision for school transport.

OTHER FINANCE AND ACCOUNTING

17. Governors should be free to supplement their income from other sources though no payments could be required of parents and there would be limits, if not an absolute bar, on commercial borrowing. Governors would need to satisfy the LEA that they had made proper arrangements for accounting and audit.

FLOAT

18. To provide a reasonable degree of independence in the face of commercial uncertainties, ECS schools would need to be given at start up a working balance which would also act as a buffer for unavoidably "lumpy" expenditure on, for example, major maintenance. This would be a one-off but significant addition to public expenditure.

LEA SUBSIDY AND TAKEOVER

19. If a school found it could not make ends meet, it would be open to the LEA to make a subsidy over and above normal credit income. The LEA would do so only if it was satisfied that there was good reason for keeping the school going in

this way. The LEA could be expected to make the subsidy subject to conditions which would limit the governors' managerial freedom. If the LEA considered the school had no prospects of survival as an ECS school it could either propose its closure (see paragraph 25) or reassume control of the establishment, subject to the school's right of appeal to the Secretary of State (which, if upheld, would have the effect of requiring the LEA to subsidise the school). In such cases, the LEA would be under a duty (from which the Secretary of State could grant relief at his discretion) to re-establish the school as an ECS establishment after, say, 5 years. The LEA would have a duty, subject to appeal to the Secretary of State, to take over a school which failed to meet minimum educational standards (see paragraph 43) unless, again, it wished to propose closure. It is envisaged that, in cases where the LEA reassumed control, the trust's powers to operate the school would be suspended, although the trust itself might remain in being.

Further work is needed on the trust implications of this, particularly as regards former voluntary schools which would hold the property (see paragraph 13).

#### LEA RESPONSIBILITIES

20. For that part of its school provision organised on ECS lines, the LEA would continue to be financially responsible for:-

- a. central administration on schools' matters, including credits for, and special subsidies to ECS schools, and supervision of minimum educational and financial standards therein;
- b. advisory services where these were used in support of the Authority's residual responsibilities;
- c. debt charges and rents where liability was incurred before schools became ECS establishments;
- d. pupil support in the form of educational maintenance allowances and clothing grants;

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e. free school meals (to be provided either by negotiation with a school or by making independent arrangements if the school chose not to provide meals);

f. some minimum provision of free school transport to the nearest suitable school broadly in line with present entitlements (further consideration needs to be given to the procedures to be followed if the nearest school had refused the child a place); and .

g. provision for the under 5s (see paragraph 45 below).

LEVEL OF CREDIT

21. Ideally, there should be standard values for the credit, varying only by reference to phase. However, unit costs presently vary widely not least because they are strongly affected by the size of the school. Even after making special provision for the random effects of historic capital and rents (paragraph 20c. above), many schools would find themselves in an impossible situation if immediately required to make substantial economies to bring their budgets to the level required to fit a standardised credit. Of necessity, the starting point must be each school's extant unit cost. The stated aim would be convergence, with the medium-term target of reaching a formula-based approach where standard credit values could be weighted by objective socioeconomic factors and other local variables such as school size. It is for consideration whether any LEA would be willing at the outset to commit itself to any particular formula or timetable for reaching this. At the least, however, it might be required to publish its intended general strategy in its structure plan.

22. Credit values would be fixed by the LEA for the financial year ahead. (Appropriate accounting arrangements would need to be made for the mismatch with the academic year.) Schools would be able to appeal to the Secretary of State about the credit value as determined. It would be worthwhile requiring the LEA to consult the governors before fixing the credit for their school.

23. Since the credit's value would vary school by school,

the numbers of pupils at which are fluid, the overall cost cannot be predicted precisely. Consequently, the LEA would have to fix and adjust its ECS budget in the light of the position school by school.

## CHANGES IN PROVISION

24. Schools would start their ECS careers at their existing size, character and age range but it is implicit in the system that these should change over time in response to parental wishes. There are strong arguments for retaining arrangements on the lines of those currently in force under the Education Act 1980 whereby such changes would be subject to the approval of the Secretary of State with opportunities for objection by the LEA, other governing bodies and local government electors: these parties will be affected by and therefore have a legitimate interest in the way ECS governing bodies act. The Secretary of State would, in any case, need to be involved in approving the "significant" (appropriately defined) enlargement of schools and the establishment of new ones by voluntary bodies since he would need to be able to judge the implications for capital grant purposes (see paragraph 27).

25. Closures would arise where a school is failing and, perhaps because of falling rolls, the LEA concludes that it would be better for the school to close rather than be subsidised or taken over. The requirement of formal approval by the Secretary of State would subsume the inevitable right of appeal that governors would expect in such circumstances and also enable the extent of public support for the school to be gauged.

26. The Advisers take the view that significant enlargements financed without capital grant, and all changes of character, should not be subject to the suggested approval procedure since this seems an unnecessary derogation from the principles of self-management and self-determination on which the scheme is based. It seems to officials, though, that the potential effect on others requires such a procedure. If the governors

of, say, a secondary ECS school decide that, in future, its intake should be "grammar", this has the effect of turning other secondary schools into "secondary moderns". To take another example, if all the secondary schools in an area resolved in an uncoordinated manner to admit only "grammar" intakes, they could clearly not deliver and would have approached parents on a false prospectus. It would seem appropriate for changes of this sort which may narrow choice for the majority to be open to objection and for the overall pattern of provision in an area to be subject to the Secretary of State's control, within the limits of the proposals made.

#### CAPITAL GRANT

27. It would not be appropriate for the LEA to control the building programme for ECS schools. Capital funds currently channelled to schools via LEAs would, following appropriate changes in public expenditure provision, be replaced by an 85% grant available from the Secretary of State on the lines of grant currently paid to aided schools in respect of external repairs, capital work and expenditure on sites. (In the ECS governors would need to be responsible for necessary playing fields. In the case of aided schools, these are currently the LEA's responsibility.) For major projects, grant would flow automatically from the Secretary of State's approval of the project (see paragraph 25) subject only to satisfactory progress. Other grants would be at the Secretary of State's discretion, though the discretion would be minimal in the case of urgent repairs. This is a little tighter than the present regime for aided schools where the Secretary of State is under a duty to pay grant in qualifying cases; but it would make it easier to cash-limit capital grants.

28. Notwithstanding LEAs' distance from these capital arrangements, it would probably be necessary to require them to coordinate local bids for capital projects and, once approved,

to supervise their progress. Their present responsibilities would continue for non-ECS schools and, exceptionally, in the case of new schools in ECS areas where the schools or voluntary bodies were failing to keep pace with increased numbers (see paragraph 41).

#### BUILDING STANDARDS

29. It is assumed that the School Premises Regulations of 1981 prescribing minimum premises standards for maintained schools should apply to ECS schools. Existing schools are given until 1991 before they have to comply with the higher standards of the 1981 Regulations. Legislation would need to make clear that schools taking on ECS status were not new and did not, therefore, have to comply immediately.

#### TEACHERS

30. ECS schools would employ and pay their own teaching staff thereby accruing the benefits and responsibilities of being free agents in employment and deployment matters. As maintained establishments, the schools would continue to be bound by the general framework of the Teachers Regulations, including QT status. (There are problems to resolve about the handling of probation in ECS schools.) There would seem to be no difficulties on the superannuation front. Notwithstanding potential difficulties by reference to the position in non-ECS maintained schools in the locality or on any reversion of ECS schools to LEA control, governors would be free of the Burnham salary arrangements though it would be necessary to ensure that they could not pay teachers less than the Burnham minima.

31. Serious problems could arise on the creation of ECS schools. These could become the employers of existing staff in the way outlined above only by effecting a change in their contracts. Under present employment legislation, such a change if made



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without consent (and time would need to be allowed for re-negotiation) would amount to constructive dismissal, allowing remedy to be sought from industrial tribunals. The necessary process is likely to involve the re-negotiation of the LEA's existing agreements with local teacher associations, which could be a matter of some complexity. The only realistic option would seem to be to persuade existing teachers to transfer voluntarily. For this to succeed, teachers would need to be guaranteed at least as favourable terms as those currently enjoyed. Even so, success could not be guaranteed and some turbulence seems likely.

32. Problems will arise, too, for the ECS school that was contracting (owing to unpopularity or falling rolls) to the point where staff numbers had to be reduced. This could not be achieved by leaving any vacant posts unfilled without damaging the curriculum. Teachers might need to be made redundant which, as a general rule, achieves negligible savings in the first year. Mismanaged redundancies or other dismissals may give rise to further cost by successful challenge before industrial tribunals.

33. It would derogate too much from the governors' responsibilities to transfer such liabilities (and, in equity, final decisions) to the LEA. It might, though, be possible to mitigate some of the problems by amending the Employment Acts to create single employment fields in a participating LEA's area to cover both ECS and conventional maintained schools, though this would create other difficulties for ECS schools.

OTHER STAFF

34. Some of these issues arise also in connection with non-teaching staff.

ADMISSIONS

35. ECS schools would be entirely responsible for admissions except, in limited circumstances, for children who would otherwise have no school to go to (see paragraph 40) and those in need of special educational provision (see paragraph 49). The

need for parents' choices to be informed will remain: of particular importance will be schools' admission policies and the priorities they propose to adopt should the school be over-subscribed. There therefore seems no reason to disturb the general pattern of the Education Act 1980 on the publication of information, though the balance of information to be published by the LEA on the one hand and the schools on the other would need changing to reflect the new balance of responsibilities.

#### CLEARING HOUSE

36. Unless parents are to be put to what seems an unacceptable degree of trouble (by reference to the present arrangements) in applying and negotiating on an individual basis with all the schools available for their children, particularly as all admissions need to be settled during a relatively short period, there needs to be some clearing house arrangement. This would work properly only if all ECS schools were members and if its operation did not inhibit schools' freedom and enabled the parent to see that it was the individual school with which he was dealing.

37. In view of its knowledge of eligible children in the area and its long-stop responsibility for ensuring that these secured school places, the clearing house function would best be taken on by the LEA. It would, in any case, presumably be for the LEA to initiate the annual admissions round.

#### APPEALS ABOUT ADMISSIONS

38. It is envisaged that there would be no appeal for parents against an ECS school's decision not to admit their children. Parents would lose the appeal arrangements under the Education Act 1980 which applied for the first time in 1982. (In that year, one third of the 9000 parents who took their cases to

appeal were successful in securing places for their children that would otherwise have been denied them.) There would be a sharp contrast here between the localities organised on ECS and traditional lines.

39. Appeals machinery of the necessary independence, however, would erode ECS schools' autonomy to an unacceptable degree. It might be possible, though, for the LEA clearing house machinery to include some forum for attempts at conciliation between schools and parents, with a power to recommend a child's admission but without the ultimate power to require it.

#### SECURING COMPULSORY EDUCATION

40. In the case of a parent who was unsuccessful in securing a place at any school, the LEA would be empowered to require an ECS school which had vacant places (which would need careful definition) to admit the child. The LEA's role in the proposed clearing house operation would put it in a good position to monitor the need for this action and to be aware of the schools where places were available. Schools would be able to appeal to the Secretary of State against such imposed admissions.

41. Should all the ECS schools in the locality be full, the LEA would have to take up places in independent schools or make ad hoc arrangements. Before this point were reached, however, it would have perceived the impending shortage of places and have taken the initiative in establishing a new ECS school. If the likely shortfall of places were small, the LEA's first step would presumably be to encourage existing schools to expand as necessary.

42. The present machinery of school attendance orders would continue to apply in the case of children whose parents kept them out of school without making suitable arrangements for their education. In the absence of local appeal arrangements

in ECS area, any disputes about the school to be named in the order would in the first instance be between the parent and the school and would be determined by the LEA. The Secretary of State would be involved if the school wished to appeal against the imposed admission (see paragraph 40).

#### CURRICULAR STANDARDS

43. The responsibility for general curricular policy would in effect be lodged with ECS schools. The LEA's role would be to ensure that minimum standards were met, with appropriate assistance from its own advisers and H M Inspectorate (both of which would need to be expanded). Arrangements would need to be made to ensure that LEAs retained the necessary professional and practical expertise to discharge their functions. In the last resort, LEAs could assume the management (see paragraph 19) of ECS schools that fell short of the criteria which, for the first time, would need to be expressed and promulgated in a concise form though, as far as possible, avoiding narrow prescription. This would be a difficult task. ECS schools' autonomy would make much more difficult the transmission of Government policy for the school curriculum and in-service training.

#### RELIGIOUS EDUCATION

44. The 1944 Act's exceptionally detailed provisions regarding religious education would remain. Briefly, these would enable only former voluntary schools to provide a denominational religious education. Former county schools could provide it only in accordance with a syllabus "agreed" under the continuing aegis of the LEA.

#### PROVISION FOR UNDER 5s

45. ECS schools would in principle be free to decide whether to cater for under 5s. But if the school wished to discontinue nursery provision, the Secretary of State's approval would,

as now be required. Where the LEA wished under 5 provision to be made in an ECS school, this would, if the school agreed, be financed by direct grant from the LEA rather than a pupil-related credit. If an LEA offered no such grants, schools would be free to offer provision for the under 5s, free of charge, provided this did not detract unacceptably from provision for its other pupils. In an ECS area, the LEA would not necessarily be able to provide the pattern of under 5 provision it desired. It might, for example, be driven to provide much more expensive free-standing nursery schools.

16-19s

46. While there is no current duty to provide education for the under 5s (except for certain children with special needs) there is such a duty in respect of 16-19s though it is open to an LEA to discharge its duty either in schools or in FE.

FE would fall outside ECS proposals but 16-19 provision in schools could not realistically be divorced from the ECS method of financing. There would need to be effective coordination of provision in both schools and FE for the needs of 16-19s in an area. This strengthens the arguments for some approval mechanism for ECS governors' change of character proposals (see paragraphs 24-26).

47. It will also be important to ensure that there are no financial disincentives either on the part of an ECS school or the LEA to the link courses which enable a school to broaden its curriculum (including that for pupils under 16) by using the facilities of a nearby FE college. This issue requires further exploration.

48. If Ministers wished to give ECS schools added flexibility provision in ECS schools for pupils over compulsory school age would not have to be full-time as now. Such part-time pupils would need appropriately reduced value credits.

#### SPECIAL EDUCATION

49. Special schools would fall outside the scope of the ECS, and no amendments to the general pattern established by the

Education Act 1981 is envisaged. But although it would be open for children who are the subject of a statement on their special educational needs to be admitted to ECS schools, this would have to be by negotiation between the LEA and the schools. To secure the placement it thought right in the pupil's interest, the LEA would have to enhance the value of the credit in respect of the child. The LEA might need a power to compel admission, subject to appeal by the school, on the lines proposed in paragraph 40.

50. Similar problems would arise in relation to the 15 per cent or so of children who have special educational needs but are not the subject of statements and who now are, and ought to be, educated in ordinary schools. It is open to question whether any specially enhanced credit would be sufficient to encourage ECS schools to admit such children voluntarily or whether necessary placements would normally be by LEA direction (see paragraph 40).

51. The general effect of the ECS arrangements for children with special educational needs will very much depend on the readiness and ability of the parents to identify and secure in their dealing with schools the provision most suited to their children's needs. The intentionally stronger competition for places in the ECS is unlikely to lead to any expansion of the present fairly limited opportunities for this group.

#### PUPILS FROM NON-ECS AREAS

52. It would be a significant reduction of the freedom of access to maintained schools given by the Education Act 1980 if the introduction of ECS in an area meant that parents from outside (even if still in the same LEA area) could no longer seek admission to the school involved. By the same token, parents in the ECS area should continue to be able to opt for schools elsewhere. There is, however, no reason why the maintaining authority could not offer credits to ECS schools in respect of every child admitted, regardless of his home address. (A problem would arise only if it was desired to

use tangible vouchers.) Where the child belongs to the area of another authority, the cost of the credit would be recouped by the maintaining authority from his home authority in the ordinary way.

#### CHURCH (AND OTHER VOLUNTARY) SCHOOLS

53. Existing county schools would have no say in whether or not to join ECS: this would be settled by the LEA. It is unlikely, however, that the Churches and other voluntary bodies would accept the imposition of such a decision in respect of their schools and it seems inevitable that the decision whether or not to take ECS status should rest with individual voluntary schools. It is open to doubt how far voluntary schools would perceive the greater autonomy available to them under ECS (aided schools already have considerable power in respect of premises, the appointment of staff, admissions and the curriculum) as worth the uncertainty of operating in a quite new way together with the risks to them and their trusts should they fail in the new situation. It is thus likely that there would be several non-ECS maintained schools operating in an ECS area.

#### INVOLVEMENT OF THE SECRETARY OF STATE

54. As indicated in this paper, there would be new roles for the Secretary of State in the proposed ECS. It is envisaged that he would also retain the duty under section 67 of the Education Act 1944 to settle disputes between LEAs and governors and also keep the power to intervene under Sections 68 and 99 of the Education Act 1944 to remedy default or prevent the unreasonable exercise of functions on the part of LEAs or schools. The number of disputes and complaints referred to the Secretary of State seems likely to be greater under ECS because of the high financial stakes involved. Parents' loss of local admissions appeal machinery coupled with greater autonomy in this area for ECS schools seems bound to lead to a greatly increased number of complaints from disappointed parents. All such cases would need to be resolved quickly.

## SPECIFIC GRANT

55. For the most part, an LEA's expenditure on maintaining schools through education credits would continue to be met from both its rates and central government RSG. There would, however, be additional costs consequent on a move to ECS.

The most obvious is the substantial start-up cost of the float for individual ECS schools (see paragraph 18). It would be difficult for the RSG machinery adequately to compensate LEAs for this and it would be better met mainly (if not wholly) by a new specific grant. There would also be the frictional costs of initial redundancies of staff unwilling to transfer into ECS arrangements. It is also arguable that at least initially, an ECS system would be more costly than the traditional arrangements when tightly managed. It would be inappropriate for the extra cost of so controversial an experiment as the ECS to result in less grant being received by other authorities through the normal RSG machinery. This extra expense would be an appropriate call on specific grants (which would need to be presented as "new money") for some years. The scope of the specific grant making power would need to be closely defined in the legislation. It is unlikely that LEAs could see the specific grant as an inducement to opt for ECS, but are likely to regard it as a necessary concomitant.

## COSTS AND MANPOWER

56. Further work would need to be done before a reasonable estimate of the additional costs of operating ECS in a representative area could be made. A significant part of this would be on manpower:-

- a. in the schools, principally for administration (and DES limited experience in these matters casts doubts on whether sufficient competent bursars can be found);
- b. in LEAs where reduced functions in some respects seem likely to be more than offset by increasing action



in other areas, particularly on the advisory and monitoring front (where, again, there could be difficulties over recruiting appropriately qualified people);

c. in HMI in devising and monitoring more specific standards (and recruiting staff of the appropriate ability could pose problems); and

d. in DES consequent on the additional roles proposed for the Secretary of State, particularly as these would need to be discharged very promptly.

#### LEGISLATION AND TIMING

57. Although many features of the existing arrangements would continue in ECS, it must be seen <sup>for</sup> what it is, namely, a complete alternative school education system. The necessary legislation will be consequently complex and take time to prepare. The legislation itself would seem to be highly controversial both within and outside Parliament. If, on enactment, there were LEAs wishing to avail themselves of the alternative and ready to make proposals which commended themselves to the Secretary of State, there would be a number of processes (particularly concerned with the setting up of the necessary trusts) to be completed. Two to three years after enactment would be needed before ECS schools could begin to operate. There is likely to be strong criticism of the availability of finance for the frictional difficulties of introducing the entirely novel ECS arrangements, instead of channelling additional resources into already identified areas of educational need.

There could also be controversial comparisons between the other arrangements on offer for potential ECS schemes and those in force for traditionally organised areas.



C/O L

## DEPARTMENT OF EDUCATION AND SCIENCE

ELIZABETH HOUSE YORK ROAD LONDON SE1 7PH

TELEPHONE 01-928 9222

FROM THE SECRETARY OF STATE

David Barclay Esq  
 Private Secretary to the  
 Prime Minister  
 10 Downing Street  
 LONDON  
 SW1

cc Mr Gregson  
 then Bif

18 November 1983

Dear David,

Thank you for your letter of 16 November.

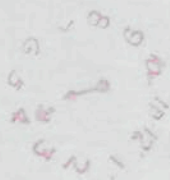
As regards the second paragraph of your letter, my Secretary of State is pursuing the possibilities discussed with the Policy Unit in the wider context of educational standards in the schools. He intends to write to the Prime Minister before Christmas.

Bif  
 see reply 9.12.83  
 EDUCATION: Secondary School Education Part 2

C E Hodkinson

pp MISS C E HODKINSON  
 Private Secretary

Educator: Wider Parental  
Choice Nov '87



NOV 8 AM

CONFIDENTIAL



*File 116*  
*cc Mr Gregson CO*  
*Olive Lehnin*

10 DOWNING STREET

*From the Private Secretary*

16 November 1983

In his letter of 4 July to Imogen Wilde, Tim Flesher asked your Secretary of State to arrange for discussions with the Policy Unit here about ideas for pursuing wider parental choice. He went on to say that the Prime Minister would then wish to return to this subject.

Could you please let me know when you are likely to be in a position to come back to us on these ideas, which the Prime Minister may well see as relevant to current consideration of educational standards?

DAVID BARCLAY

Miss Elizabeth Hodkinson,  
Department of Education and Science.

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bc. Ferdinand Mount  
Peter Gregson (CO)

*Handwritten initials: FG*

10 DOWNING STREET

*From the Private Secretary*

4 July, 1983.

The Prime Minister has now seen your Secretary of State's minute of 29 June about a number of possible policy options for pursuing wider parental choice and influence over education. She considers that the ideas identified by your Secretary of State are all worth while, and ought now to be pursued. She wonders, however, whether the scope for progress might be greater than appears to be implied in your Secretary of State's minute, and she would be grateful, therefore, if he could arrange for the ideas in the paper to be discussed with Ferdinand Mount here, with a view to identifying whether a more ambitious programme might be possible. When those discussions are complete, the Prime Minister would like another opportunity to consider how best to take the work envisaged in your Secretary of State's minute forward.

Timothy Flesher

Mrs. Imogen Wilde,  
Department of Education and Science.

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10 DOWNING STREET

Prime Minister

1  
MK

Attached are

a) a minute for Sir Keith  
Joseph on where we go  
from here on educational

choice

b) a note from Fredy  
commenting on a)

I think the first step  
in taking this work forward  
might be to reconvene the  
small group i.e. the Chancellor,  
Environment,  
Sg S for Education, Employment  
and Trade and Industry to consider  
Sir Keith's proposal.

Do you agree?

TJ  
1.7

PRIME MINISTERWIDER PARENTAL CHOICE AND INFLUENCE

Keith's note describes how we might put our Manifesto commitment into practice.

1. He rightly points out that "we shall continue to seek ways of widening parental choice and influence over their children's schooling" gives us much scope. But we have effectively blocked off, for the time being anyway, one major possibility, namely credits/vouchers. Statements by Ministers during and after the Campaign have, I think, made it pointless even to publish any recognisable scheme for this sort, such as the advisers' scheme. Even a Green Paper would raise alarm and opposition and make it impossible for step-by-step progress towards parental control.
2. Keith makes five suggestions for step-by-step progress. These are all well worth considering urgently, and you may feel you want a small Ministerial Group to consider them as soon as possible.
3. But these five useful proposals still leave a gap. I think what we are all searching for is a means to promote the creation of more schools comparable either to the old direct grant schools or to the present voluntary aided schools. It is, I think, possible to envisage granting true internal self-management to schools which are wholly state-funded. As far as current finance goes, this is already true of voluntary aided schools. The one objection put forward by the DES to giving most state schools this much freedom is that the church schools are tolerable only because they form a small minority. If every school had control over its own admissions, the LEA would still have to look after those pupils whom no school would take.

One way through this difficulty might be to create a new category of school, the "voluntary county school". This would have the independence of the church schools (independent Board of Governors with the power to appoint headmasters, etc) minus the power over admissions. A voluntary county school would have to take the

children allocated to it by the LEA, but would be almost entirely responsible for their education. One can envisage schools of this type springing up in inner-city centres as well as in country areas. It might even be possible to grant existing county schools the powers to "go voluntary", provided they satisfied educational standards. If the idea of the voluntary county schools caught on, we could move gradually to a pattern more like that of, say, the Netherlands, where the majority of schools are under independent management, although remaining state-financed.

It is, I think, inevitable now that we should move towards our goal by steps, but I think we should consider whether we could not take rather larger steps than Keith's paper envisages.

Would you be agreeable for the Policy Unit to explore with the DES how we might move forward a little faster?

Yes  
ms

fm

FERDINAND MOUNT