



2 MARSHAM STREET LONDON SW1P 3EB

My ref:

Your ref:

The Rt Hon John Wakeham MP Lord President of the Council Privy Council Office Whitehall LONDON SWIA 2AT

12 July 1988

Dear John

THE GOVERNMENT'S RESPONSE TO THE WIDDICOMBE REPORT

We agreed at H(88)4th that the Government's response to the Widdicombe Report should be published as a White Paper and that I should circulate a text in due course. There was agreement to the broad thrust of the response and decisions were taken on a number of outstanding issues.

I was left to pursue with appropriate colleagues unresolved issues on education and councillor's remuneration and to report back to the Committee. This I now do and enclose a draft text which reflects both the earlier conclusions and the matters on which I can report agreement with colleagues.

You will recall that the unresolved educational matters concerned education committees and chief education officers. Michael Howard's letter of 31 May and Kenneth Baker's reply of 21 June (copies attached) enabled us to record agreement on all but two points. These were:-

- Secretary of State approval for chief education officer appointments
- whether to make mandatory the co-option of church representatives with votes to education committees and whether the basis for such co-options should be the provision of voluntary aided schools in the area.

Kenneth and I discussed these issues last week. His letter to me of 8 July records the outcome. He has concluded that he will think further about chief education officers and that nothing need be said on the subject in the response to Widdicombe. For my part I accepted that the 1944 Act provisions on education committees should be amended as Kenneth wished to require co-option of church representatives with votes where the churches provide voluntary aided schools in the area.



On councillor's remuneration officials in the relevant
Departments have examined further Malcolm Rifkind's suggestion
that tightening the criteria for attendance allowances under the
existing scheme might be a more attractive option than
introducing a new flat rate allowance with no overall increase in
costs. I understand that the Ministers concerned, including
Malcolm, have agreed that any worthwhile tightening of existing
arrangements would not avoid the political difficulties of a flat
rate scheme without any of the benefits of the latter and would
in any case be open to manipulation. I can therefore report
agreement to proceeding on the basis of a flat scheme at no
overall increase in costs, including administration costs. The
details will be disclosed to the local authority associations in
due course and Malcolm reserves the right to come back in the
light of the reaction.

The text of the response which I am enclosing has already been circulated at official level in virtually the same form and I should be grateful if drafting comments could be relayed on the official net. If there are any comments of substance could I please have them by mid-day on 15 July? Subject to that I should be grateful for approval to proceed by close on 15 July. I then aim to publish the response, as a White Paper, by means of a Written Answer before the summer recess. In many public had a PNQ, or an oral Salmant, must be transle as he relied to the American I am copying this letter to the Prime Minister, the other members of H, the Minister for the Civil Service as well as to Sir Robin Butler and First Parliamentary Counsel.

NICHOLAS RIDLEY



Department of the Environment 2 Marsham Street London SW1P 3EB

Telephone 01-212 7601

31 May 1988

Dear Kinister

WIDDICOMBE: CUTSTANDING EDUCATION ISSUES

The minutes of H(88)4th invited Nicholas Ridley to resolve the outstanding education issues on which decisions were not reached and to report the outcome to the Committee. As a first step officials of our two Departments met last week and made some provisional recommendations for us to consider. I enclose a copy of their note for ease of reference.

Nicholas and I are anxious to make progress with the publication of the Government's response to Widdicombe and we therefore need to settle the remaining education points as quickly as possible. I thought it might be helpful if I were to let you know our views.

Essentially we are prepared to endorse the proposals made by officials with two exceptions.

The first and more important concerns the appointment of chief education officers. This was not an issue on which the Widdicombe Report made any recommendations, nor was it raised by your Department until after the official and Ministerial steering groups had completed their deliberations.

You will recall that in our discussion at H the proposal that the Secretary of State should approve appointments received little support. By contrast there was a good deal of sympathy for the alternative idea of laying down minimum qualifications. If we were to agree to Secretary of State approval for chief education officer posts we should be under very strong pressure to concede a similar agreement for chief executives, chief finance officers, directors of social services and directors of housing and in great difficulty in explaining why what was appropriate for education was not appropriate for those other



important posts. Moreover, as was argued at H, if in the event a proposed appointment was blocked other than on professional grounds the risk of an embarrassing legal challenge would arise.

I appreciate that in the Education Reform Bill you are taking powers to approve the appointments of chief education officers in the Inner London boroughs. But I suggest that they present a different case. These boroughs are establishing an education service for the first time and a degree of central guidance can be justified. Thus it was reasonable to provide for similar approval for all chief education officers in the aftermath of the 1944 Act which established the post-war education system. In due course in 1974 the provision was dropped on the grounds that LEA's had passed through their period of tutelage. In the same way social service directors were initially approved by the Secretary of State for Social Services after Seebohm but the arrangement ended in 1980/81.

I would therefore like to urge you and Kenneth to give further consideration to achieving your objective by prescribing minimum qualifications. The details must be for you but I would have thought that a combination of a degree, some experience of teaching or lecturing and very senior administrative experience would be adequate. To cater for special cases there could be a power for the Secretary of State to dispense with a particular requirement provided he was otherwise satisfied with suitability. If however you feel that you should argue that there may be cases where a candidate with impeccable qualifications should be rejected on other grounds this not only raises the risk of judicial review already mentioned but really calls into question the justification for leaving the education service in the hands of locally elected people:

The other issue on which Nicholas and I have some doubts is whether it should become mandatory for LEA's in England and Wales to co-opt church representatives to education committees. We understand that a few do not and that this is permissible under the 1944 Act which does not contain a clear cut requirement on the matter. We are entirely content to go along with John Belstead's proposal not to take away voting rights where church representatives are co-opted and are given such rights, but might it not be better to leave things as they are rather than to impose an express requirement for co-option when we are removing it in virtually every other case?

I should be glad to know if on further consideration you can agree to securing the appointment of satisfactory chief education officers by going down the route of qualifications and whether you wish to make the co-option of church representatives mandatory or to leave the present position undisturbed. If it would help I should be glad to have an early word. If you and Kenneth feel that you cannot agree I fear that we shall have to ask for a further discussion in H as soon as convenient.

I am copying this letter to John Wakeham, Malcolm Rifkind, John Belstead, Ian Grist, Sir Robin Butler and First Parliamentary Counsel.

Yours smerely Levey Creedon

PP MICHAEL HOWARD (Approved by the Minister and signed in his absence)

GOVERNMENT RESPONSE TO THE WIDDICOMBE REPORT EDUCATION COMMITTEES 1. This note sets out the conclusions reached at a discussion between officials of the Department of Education and Science (DES) and the Department of the Environment (DOE) on the various questions concerning education committees remitted for further consideration by H Committee at their meeting on 4 May. It also takes account of comments received from the Scottish Education Department. Composition of Education Committees 2. The starting point of the discussion was the present position whereby a. in England, education committees must be constituted in accordance with arrangements approved by the Secretary of State, and must include persons (with votes) with experience of education and with knowledge of the educational situation in the authority's area, and this requirement is conventionally (but not universally) met by appointing representatives of churches and teachers: b. in Scotland, every education committee must contain three representatives (with votes) of the churches, nominated by the churches, and representatives (with votes) of teachers. 3. The H Committee discussion showed general agreement that the proposed ban on the co-option of voting members of local authority committees should be applied to education committees, with the exception of church representatives. Although the H minutes did not record it, DOE officials confirmed their Secretary of State's agreement to church representatives in England retaining voting rights. 4. A number of questions remained: a. requirement for church representatives in England: DES believe that it would be desirable that there should be a requirement for education committees to contain representatives (with votes) of the churches; to bring out clearly the rationale for their presence, these should be described as representatives of the organisations providing voluntary aided schools in the area: DOE noted that that this would involve compelling some authorities who did not at present have church representatives to appoint them, eg Croydon. b. method of appointment of church representatives: there would be advantage in rewriting the present requirements for education committees in England (schedule 1 to the Education Act 1944); it would be desirable to maintain the requirement for the approval by the Secretary of State of the arrangements for these committees; the machinery for the selection of the church representatives (apart from a requirement for a minimum number - say, three; would then be left to these approved arrangements, which could take account of local circumstances; DES would then issue guidance in a circular as to arrangements which would be acceptable: c. method of apprintment of teachers' representatives: if the approved arrangements were new set in this way, the requirement that education committees contain people with experience in education could be retained (but this would remain capable of being subisfied either by the appointment of suitable councillors, or by the inclusion of advisers or non-voting members); where a local education authority wanted to meet the requirement by including teachers' representatives, they could then make the necessary

provision in the approved arrangements; DES would again offer advice in a circular on what would be acceptable: the choice appeared to be between simply leaving the choice to the local education authority, and requiring them first to consult with local organisations representative of teachers:

d. prohibition of local authority teachers being chairmen of education authorities: DES remained of the opinion that certain education committee chairmen who are also teaching in the public service are causing real distortions in education administration; DCE remained aware of the problem of differentiating the proposal from similar cases in other service areas; a compromise that met DES requirements, while giving a clear differentiation from the other services, would be to include in the requirement for approved arrangements for education committees a power to specify special disqualifications for chairmanship and vice-chairmanship of these committees; the existence of the approved arrangements is justifiable on the grounds of education being a national service local administered, and the consequent need for the Secretary of State to satisfy himself as to the local administrative arrangements; the inclusion of such disqualifications in the approved arrangements would then be simply one aspect of this; it would also leave a degree of flexibility if, for example, it became desirable to exclude full-time teachers' union officials from chairmanships.

Approval of Chief Education Officers

5. DES considered that the need for the Secretary of State to be satisfied about local administrative arrangements, in order to fulfil his duty (under the 1944 Act) "to secure the effective execution by local authorities, under his control and direction, of the national policy for providing a varied and comprehensive educational service in every area", justified this proposal. They did not consider that it would be possible to replace the proposal to approve the appointment of chief education officers by a set of prescribed qualifications, since some of those who would possess such qualifications might be very unsuitable to direct an education service, while others who did not have the formal qualifications might be well-suited to the task. DOE accepted that the approach of a "national service, locally administered" might provide the necessary justification for treating chief education officers differently from other chief officers. However, there remained a presentational problem: how, in the Response to Widdicombe, to justify introducing a control over local education authorities not even considered by Widdicombe alongside a rejection of such an approach in the case of the chief executive; there might be advantage in announcing the decision separately, even if the legislation and in the end to be combined.

Requirement for Education Committees to consider an officer's report before taking decisions

6. DES saw real problems arising from decisions being taken by political majorities without proper advice: they considered the DOE suggestion that standing orders should, for all committees and sub-committees, give a minority a right to demand officer advice before a decision was taken to be inadequate, because there might, in some cases, be no minority on the committee.

- 7. In discussion it was agreed that it might be possible to proceed by way of combining the two approaches: the required core of standing orders would provide
 - a. an effective means of preventing business being placed upon committee agendas without the authority's officer-advisers being aware of it (this would also be a useful strengthening of the basis of the chief finance officer's new power to report);

b. a requirement for the chief executive and any chief officer concerned to make his advice known, either in writing or orally, before a decision was taken, if he regarded the matter as sufficiently important for him to invoke his right to be heard (this would be analogous to the Civil Service Accounting Officer's right to dissent to a Minister before improper action is taken).

Such arrangements would appear to meet the aims of both DES and DOE.

Local Government 1 Division 13 May 1988



ELIZABETH HOUSE YORK ROAD LONDON SE1 7PH -01-934 9000

The Rt Hon Nicholas Ridley MP Department of the Environment 2 Marsham Street LONDON SW1P 3EB

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21 June 1988

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WIDDICOMBE : OUTSTANDING EDUCATION ISSUES

Michael Howard's letter of 31 May to Angela Rumbold set out his and your views on the way forward on the outstanding issues concerning the education service which remained unsettled after the H Committee discussion. I am pleased by the progress made in clearing up a number of the matters which concerned us at an earlier stage, and I welcome in particular the proposals to give me a discretionary power to require the reconstitution of Education Committees and to approve the arrangements for them. I envisage then making clear in a circular what arrangements would be acceptable to me. These proposals resolve in a satisfactory way the control of twin-tracking in educational chairmanships etc and the methods of selecting co-opted or advisory members. I also agree the proposals for ensuring proper participation by chief officers in business through requirements in standing orders and I welcome the extension of this to other services. And it is generally agreed that the Church representatives should retain their voting rights in England and Wales as well as Scotland.

I am scrry, however, that you still see difficulty in my having powers to approve the appointment of Chief Education Officers. I see this as an important and potentially effective element in our strategy to prevent politically motivated abuses. As you acknowledge, we shall be doing this in the Education Reform Bill for the new inner London borough authorities. With the present political temper of a number of authorities I remain of the view that it is needed generally. I would have, incidentally, no objections if colleagues wished to consider the possibility of similar powers in respect to other services: I have no doubt that opportunities for abuse arise there too. However, they may not be

so directly faced by the particular difficulty I have of being responsible to Parliament for the effective local delivery of a national service with certain powers of direction over things that local authorities do or fail to do in relation to education. I acknowledge that there would always be some risk of judicial challenge if the Government found it necessary formally to use the power to prevent an appointment. But in practice we should be able greatly to reduce the risk by inviting LEAs to submit their short-lists for CEO appointments to the Department. Provided no difficulties were identified at that stage, LEAs would then be free to make their choice without there being any question of a subsequent veto by the Department.

I considered carefully the alternative approach you prefer of our laying down qualifications which people would have to meet to be eligible for appointment as Chief Education Officers. The difficulties are that on the one hand it would in practice be relatively easy for the extremists to find someone to front for them who had any grouping of the formal qualifications which it would be reasonable to lay down and on the other hand there have been instances of very successful CEO appointments involving individuals with backgrounds which differed from the norm.

Nor am I comfortable with your suggestion that we should allow authorities to continue either to dispense with co-optees altogether or to appoint no representatives of the churches even where they are providers of education. If we judge on merits that the providers of voluntary schools should have voting rights on Education Committees, I do not think it sensible to allow authorities to frustrate our objective by avoiding appointing representatives of the providers.

In accepting the formula that voting rights should be retained only by "representatives of the organisations providing voluntary aided schools in the area" we should be aware that this will apply only to the Church of England and the Roman Catholic Church as a general rule. We would be excluding such groups as the Free Churches, the Muslims and the Jews (except in a very few areas) who at present have a stake in existing arrangements. We shall have to defend this on the grounds that these groups will still be able to negotiate suitable arrangements to make an input on a voluntary basis; and I shall of course make clear what we expect in the Department's circular of guidance.

Perhaps the next step is for us to have a brief word when you have had an opportunity to think about these points. Meanwhile, I am copying this letter to John Wakeham, Malcolm Rifkind, John Belstead, Ian Grist, Sir Robin Butler and First Parliamentary Counsel.

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CONFIDENTIAL 10 DOWNING STREET LONDON SWIA 2AA 14 July 1988 From the Private Secretary Deer loge, THE GOVERNMENT'S RESPONSE TO THE WIDDICOMBE REPORT The Prime Minister has seen your Secretary of State's letter of 12 July to the Lord President. Subject to the views of colleagues, she is content for the proposed response to be published as a White Paper before the Summer Recess. I am copying this letter to the Private Secretaries to members of H Committee, the Minister for the Civil Service, Sir Robin Butler and to the First Parliamentary Counsel. Roger Bright, Esq., Department of the Environment. CONFIDENTIAL

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13 July 1988

PRIME MINISTER

THE GOVERNMENT'S RESPONSE TO THE WIDDICOMBE REPORT

Nicholas Ridley has sent you the text of a draft White Paper giving the Government's response to the Widdicombe Report.

This White Paper is the result of many months analysis of the proposals by officials, a ministerial group chaired by Michael Howard and ultimately H Comittee.

The draft is long but the essence of the Government's response is contained in Chapter IX on 'Taking the Proposals Forward'. If you have time you might also glance at the annex which lists the Widdicombe proposals and the Government's response.

Some of the Widdicombe recommendations have already been acted on. The White Paper proposes early legislation to deal with other abuses in local Government. In particular it proposes action to:

- ban 'twin-tracking' under which senior officers of one council serve as members of another;
- require political balance on council committees;
- ban the co-option of voting members onto council committees with the exception of church representatives on education committees in areas where there are voluntary aided schools.

We recommend that you agree to the report. It tackles the main abuses in local Government whilst avoiding the somewhat heavy-handed approach in the Widdicombe report which would have given a statutory Chief Executive powers over elected members.

Conclusion

We recommend that you agree to the publication of the draft White Paper.

Peter Stredder

PETER STREDDER



PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SWIA 2AT

22 July 1988

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THE GOVERNMENT'S RESPONSE TO THE WIDDICOMBE REPORT

Thank you for your letter of 12 July seeking H Committee's agreement to the text of the Government's response to the Widdicombe Report and to your publishing it as a White Paper.

The Prime Minister (through her Private Secretary) indicated that she was content. Malcolm Rifkind was also content but, while he agreed that consultation with the local authority associations about councillors' remuneration should proceed on the basis of a flat rate allowance, he reserved his position pending the outcome of the consultation process on whether such a scheme should be imposed. He also suggested that the Government should not issue illustrative figures of the effects of the scheme on different groups of councillors.

No other colleague commented and this is to confirm that H Committee were content for you to publish the White Paper. We discussed the handling of this earlier this week, and agreed that it should be announced by means of a written answer.

I am copying this letter to the Prime Minister, colleagues on H, Richard Luce, Sir Robin Butler and First Parliamentary Counsel.

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JOHN WAKEHAM

Rt Hon Nicholas Ridley AMICE MP Secretary of State for the Environment LOCAL GOV. 7: Relations





2 MARSHAM STREET LONDON SWIP 3EB 01-212 3434

PRESS

My ref:

Your ref.

Alison Smith
PS/The Rt Hon John Wakeham MP
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Down Alton

THE GOVERNMENT RESPONSE TO THE REPORT OF THE WIDDICOMBE COMMITTEE

I am writing to confirm (and to inform copy recipients) that the White Paper 'The Conduct of Local Authority Business' will be published tomorrow Thursday 21 July. The announcement will be by means of a written answer by the Minister for Local Government, Mr Howard, and is planned for release at 3.30pm.

I enclose a text of the statement which has been cleared in substance at official level. It makes no reference to the timing of any legislation.

Copies of the final revise of the text of the White Paper have been circulated at official level. Copies of the White Paper itself will be circulated to Departments as soon as they are available tomorrow.

Copies of this letter go to the Private Secretaries to the Prime Minister, other members of H Committee, and the Minister for the Civil Service as well as to Trevor Woolley and First Parliamentary Counsel.

A D RING

Private Secretary





Question To ask the Secretary of State for the Environment, whether the Government has yet reached conclusions on the report of the Widdicombe Committee.

<u>Answer</u> The Government response to the report of the Widdicombe Committee on the Conduct of Local Authority Business has been published today as a White Paper.

The Widdicombe Committee provided us with a comprehensive analysis of the way in which local authorities are operating. The Government has since conducted extensive consultations on the committee's report. We are grateful to the Committee, to all who assisted them and to all who have commented on their report, for the quality of the analysis and contributions to the debate.

Matters have not, however, stood still since the Committee was appointed. There have been significant changes, most recently in the legislation requiring competition for major services and the proposals for a community charge. The Government's response therefore takes account of the greater emphasis on efficiency, local accountability and meeting the needs of the customer which these changes in legislation and attitude are introducing, as well as of the views expressed in the consultation process.

The central conclusion of the Widdicombe report was that, as a result of increased politicisation, there was a need for a package of measures to strengthen local democracy and accountability. The Government accept this central conclusion. The White Paper sets out our proposed package. With one important exception it accepts the general approach recommended, but differs in emphasis and extent.

The most significant difference, which accords with the more or less unanimous views of local authorities, is that we do not accept the proposal for a statutory post of chief executive. The Widdicombe Committee recommend that such a chief executive should have both overall management responsibility for the services of the authority, and the power, on certain matters, to control the decisions of the elected councillors. The Government do not consider that a requirement for such a post is appropriate.

We therefore propose a package with the following main elements.

council committees and sub-committees would be required to reflect the political composition of the council.

Voting powers would be removed from co-opted members of decision-making committees. This would not apply to representatives on education committees, in England and Wales, of churches and other organisations providing voluntary schools and, in Scotland, of churches. It would not affect the appointment of magistrates to police committees.

We accept the need for a core of standing orders which ensure a proper balance between the despatch of business and the rights of minorities. We propose that these should be developed in consultation with the local authority associations.

Turning to the position of councillor, we accept the proposed statutory register of councillors' pecuniary interests. We also accept the advantages of a basic flat-rate allowance for councillors in place of the present attendance and financial loss allowances. We propose discussions with the local authority associations over this, but we see no justification for increases in overall expenditure on councillors' remuneration.

We accept the need for measures, to ensure an efficient, expert and politically impartial local authority service.

We propose that chief and deputy chief officers and others who advise, or act on behalf of, local authorities should not be members of other local authorities or undertake public political activity. This prohibition would be analogous to the existing rules for civil servants. It would be more precisely targetted, and would apply to a more restricted class, than the corresponding proposal of the Widdicombe Committee. It would be complemented by the proposed limit on paid leave for other council staff for activities as local authority members.

All local authority appointments outside the politically restricted group would be required to be delegated to the appropriate officer.

We also propose that officers should be appointed specifically to advise on the legality and propriety of the authority's activities, and on the management of the authority's services.

The Widdicombe committee also considered the powers of local authorities to undertake discretionary expenditure.

propose a new, circumscribed power for local authorities to undertake economic development activity in place of existing powers.

In consequence, the limit on discretionary spending under sections 137 and 83 would be adjusted and restated in terms of an amount per head of the adult population. The Government propose that this should be £5 per head with a single tier of local government and £2.50 for each tier elsewhere. The current capacity for expenditure under this power by community and parish councils in England and Wales would also be redistributed on the basis of population.

The thorough work of the Widdicombe Committe and the widespread consultation on their recommendations have provided the basis for an effective overhaul of the way in which local government operates. Coupled with existing legislative changes and with the changes in attitude which are becoming apparent, the proposals will help to keep the local government system in this country functioning on a secure basis, to enable it to carry on its essential work into the next century.

SCOTTISH OFFICE WHITEHALL, LONDON SWIA 2AU The Rt Hon John Wakeham MP Lord President of the Council Privy Council Office Whitehall Rec6 18 July 1988 LONDON SW1A 2AT THE GOVERNMENT'S RESPONSE TO THE WIDDICOMBE REPORT Play I have seen a copy of Nicholas Ridley's letter to you of 12 July about the matters which remained outstanding after the meeting of H Committee on 4 May at which our response to the Widdicombe Report was considered. Nicholas reports our agreement on councillors remuneration, the only outstanding issue which caused me some concern. I am now content that consultation with the local authority associations about this issue should proceed on the basis of a flat rate allowance, and that the proposed White Paper should indicate that the Government will initiate discussions with the associations accordingly. In view of the quite substantial reduction in remuneration which many councillors, especially Scottish district councillors, will particularly if there is to be no overall increase in total costs, our prospects of securing any broad agreement on the part of the associations must remain in doubt. Should it eventually become necessary to decide whether a basic flat rate system should be imposed against strong opposition, particularly from Scottish councillors, I would then wish to take fresh stock of the position. In disclosing details to the associations, I trust we shall be able to avoid highlighting at the outset the size of the reductions in remuneration which the illustrative calculations we have previously employed suggest will be experienced by particular groups of councillors. The full implications of the proposed new system will no doubt become clear to the associations in due course, but we might leave it to them to identify adversely affected groups, and to attempt to justify higher levels of remuneration for those groups. I have no comments of substance on the text of the draft White Paper, but my officials have already passed on a number of minor drafting comments.

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I am sending copies of this letter to the Prime Minister, the other members of H Committee, the Minister for the Civil Service, Sir Robin Butler and First Parliamentary Counsel.

MALCOLM RIFKIND

LOCAL GOVT: Relations PT35.

