

Prime Minister <sup>(2)</sup>

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I do not think you need to read the draft Green Paper, but there is a summary at flag A. Overall, parents will have much more say.

In the policies for making schools better which you approved (my minute of 9 December) a key element is to give parents the dominant voice in the government of most schools. On 10 April H Committee approved the details of the scheme presented jointly by Nicholas Edwards and myself (H(84)15), and authorised us to consult on it via a Green Paper.

Edw  
11/5

I have sent H Committee the attached draft Green Paper for clearance. I think you will wish to see the draft now.

I intend to publish the Green Paper on 22 May and to make an Oral Statement in the House on that day - the date suits the Leader of the House. I shall send you a draft of the statement next week.

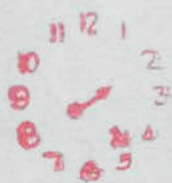
KJ.

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9 May 1984

Education  
Future Policy Part 2

29 Nov 1984





10 DOWNING STREET

*From the Private Secretary*

14 May, 1984

Green Paper on School Government

The Prime Minister was grateful for your Secretary of State's minute of 9 May, with which he enclosed a draft Green Paper on a New Framework for School Government.

Subject to the views of colleagues, the Prime Minister is content for your Secretary of State to proceed with publication of the Green Paper as drafted on 22 May.

DAVID BARCLAY

Miss C. E. Hodkinson,  
Department of Education and Science

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## A NEW FRAMEWORK FOR SCHOOL GOVERNMENT IN ENGLAND AND WALES

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## CHAPTER 1: INTRODUCTION

1. Parents care about their children's progress - how they develop and what they learn. They share the general desire for higher standards of education. What they do for their children at home lays the foundation for their development at school and helps to sustain it. Yet parents are not now able to contribute to that development as fully and as directly as they could and would wish. The 1944 Education Act contained the principle that pupils are to be educated in accordance with the wishes of their parents. We have not yet given sufficient effect to that principle or allowed parents sufficient scope for discharging their unique responsibilities. Our education system is the poorer for this. The Government now intends to extend its policies for raising standards in schools by enabling parents to improve the work of the schools.

2. A school is successful if it has a life of its own, and forms a community commanding the loyalty of its members - the pupils, their parents and their teachers. Each school needs to have its own individuality which its members themselves build up, promote and develop. The schools in the State sector which are those maintained by the local education authorities (LEAs) have always been intended to be more than an agency of local government or a place where teachers exercise their professional skills in the interests of pupils. The Education Act 1944 provided for school governing bodies which were designed to play a substantial role in giving each school identity and purpose and in managing its affairs. The Education Act 1980 brought that objective nearer by ending the practice whereby the governing bodies of many schools were merely an offshoot of the LEA, and by giving parents and teachers a limited right to be represented on the governing bodies of their schools. But at present most governing bodies do not adequately serve the aim of promoting the school as a force for good in the life of the pupils, their families and the community which it serves.

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3. The Government therefore proposes to change the law in two fundamental respects:

(1) Parents elected by their fellow parents would be given the right to form the majority of the governing body in the case of a county school or maintained special school, and to form together with the foundation governors the majority in the case of a voluntary controlled school.

(2) All governing bodies of county, voluntary controlled and maintained special schools in England and Wales would have their functions clearly defined so that they can cooperate effectively with LEAs, heads and other teachers in promoting good education.

The proposals have been framed after consideration of the wide-ranging recommendations of the Taylor Committee ("A New Partnership for our Schools", HMSO 1977). Before it finalises its proposals the Government wishes to consult as widely as possible with its partners in the education service and with all others who are concerned with the work of the service. This Green Paper sets out the Government's proposals in detail and invites the views of all interested parties.

4. The Government does not intend to alter the basic structure of the dual system of county and voluntary schools which has served the country well since 1944, provides diversity within the maintained system and enables parents, if they wish, to send their children to schools which reflect their own religious beliefs. The proposals are concerned mainly with the 20,000 county and maintained special schools and the 3,500 voluntary controlled schools in England and Wales. In the case of voluntary controlled schools, the proposals preserve the features which make them a distinctive part of the voluntary sector.

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5. In general the proposals do not affect the position of the 4,500 voluntary aided (and the 100 special agreement) schools. The principal functions of the governing bodies of such schools are already defined by statute and reflect the fact that these schools are owned and in many important respects controlled by the voluntary body (often a religious body) which originally established them in accordance with its own educational philosophy. It is on the basis of these rights that the voluntary bodies in question have agreed to participate in the maintained school system. The Government does not intend to remove from them that measure of control over their schools which derives from the fact that the voluntary body appoints a majority of the governing body. Each such body is free to appoint more of its quota of governors from among the parents and to propose for any of its schools that its instrument should be varied to permit the number of elected parent representatives on the governing body to be increased above the minimum laid down in the 1980 Act.

6. The Government's proposals fully respect the responsibilities of the LEA for the schools which it maintains. In the Government's view, it is essential that each LEA should have the powers it needs for discharging its duty to secure efficient school education in its area and to make its full contribution to the achievement of higher standards in our schools. The functions now proposed for governing bodies are designed to complement at the level of each school those functions which need to be performed by the LEA in respect of its whole area.

7. The Government's proposals also respect in full the crucial professional responsibilities of the teachers. The proposals provide a secure legal foundation for the exercise of these responsibilities in a way which gives free play to the professional development and innovation essential for the improvement of standards. In particular they seek to clarify the role and to preserve the authority of the headteacher.

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8. The proposals in this Green Paper complement the Government's policies for the school curriculum, examinations and teaching quality. They build on what has been achieved over the years by LEAs and teachers in raising the standards of our maintained schools. In the Government's view, the changes now proposed will help LEAs, teachers and parents to work together in the most fruitful and effective way in the common task of giving to all children the best school education that the nation can afford.

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## CHAPTER 2: COMPOSITION OF GOVERNING BODIES

### The present position

9. The Government's proposals for radically changing the composition of the governing bodies of all maintained schools other than voluntary aided and special agreement schools take as their starting point the changes enacted by the Education Act 1980 in the composition and scope of the governing bodies of maintained schools. These changes were two-fold. First, the Act provides for the bringing to an end the widespread practice of grouping many schools together under a single governing body; second, it introduced governors directly elected by and from both parents and teachers. In view of the good progress made in the voluntary implementation of these changes the Secretaries of State for Education and Science and for Wales announced in January 1984 their intention to require full implementation by September 1985.

They will shortly consult all concerned on the terms of a circular about the details of this operation.

10. Thus by September 1985 each maintained school will (with certain limited exceptions) have its own governing body, and each governing body will include elected parent and teacher governors. The composition of a school's governing body is specified by law in its instrument of government which is made by the LEA or the Secretary of State in accordance with the school's status (Chapter 10 gives further details). By virtue of Section 2 of the 1980 Act the composition of a governing body and, hence, the terms of the instrument of government are subject to certain minimum requirements as follows:-

- (1) some governors must be appointed by the LEA;

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(2) in the case of a primary school (other than a maintained special school) serving an area where there is a minor authority, one governor must be appointed by that authority (where there is more than one such authority, they are required to act jointly in appointing the one governor);

(3) in the case of a voluntary school, there must be sufficient foundation governors (that is, governors appointed by the voluntary providing body) to constitute at least one fifth of all governors for a controlled school or, for an aided or special agreement school, to outnumber the other governors by two or, if the governing body has more than 18 members, by three;

(4) except for a special school established in a hospital, at least two or, in the case of a voluntary aided or special agreement school, at least one governor must be a parent governor i.e. elected by and from parents of registered pupils at the school; in the case of a voluntary aided or special agreement school one of the foundation governors must additionally be a parent of a pupil registered at the school.

(5) at least two or, if the school has fewer than 300 registered pupils, at least one governor must be a teacher governor, i.e. elected by and from teachers at the school;

(6) the head teacher has a right to be a governor, unless he decides not to be.

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LEAs usually avail themselves of the freedom under the 1980 Act to appoint the majority on the governing body of a county, voluntary controlled or maintained special school. As a result of this and the Act's broadly formulated provision for the inclusion of other categories of governor (eg. from the non-teaching staff, from pupils or from the wider community), the governing body of even the smallest school usually has about a dozen members. Most governing bodies have between 15 and 25 members, and some are larger still.

### The proposed new composition

11. The Government believes that it is in principle right that every maintained school should have a life of its own within the system of maintained schools in the area, and that this aim is best secured by assigning to the governing body important responsibilities for the school which it can discharge with a degree of independence from the maintaining LEA. Such independence is not compatible with the present unqualified right by the LEA to appoint the majority of members of the governing body of county, voluntary controlled and maintained special schools. For county and maintained special schools, that majority should, in the Government's view, be drawn from the parents of the pupils at the school, to reflect the position of parents as partners with the school in the education of their children. For voluntary controlled schools, the majority should be drawn from such parents plus the foundation governors, so as to preserve the present rights of the voluntary providing body without making the governing body unacceptably large. The governors who represent the parents of these schools should not merely be elected by the parents of registered pupils but, like the parent governors required by the 1980 Act, should also

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themselves be such parents. Those who represent the parents in the governing body will do so better if they bring to the task that concern and familiarity with the work of the school which flow naturally from having one's child among those directly and currently served by the school.

12. Consequently, it is proposed that the majority of governors of a county or maintained special school should normally be formed of parents elected by and from the parents of children attending the school in question. In the case of a voluntary controlled school, account should continue to be taken of the interests of the voluntary providing body: in such a case, it is proposed that the majority on the governing body should normally be formed of parent governors and foundation governors.

13. Section 2(4)(b)(i) of the 1980 Act provides for the foundation governors to be in the majority on the governing bodies of voluntary aided and special agreement schools.

It is not proposed to amend that requirement or the other requirements of that Act for the composition of such governing bodies. But the Act makes it possible for these governing bodies to contain more than one foundation governor who is a parent of a registered pupil and more elected parent governors than the statutory minimum, and it is open to the governing body of a voluntary aided or special agreement school to propose such changes in its instrument of government.

14. The Government's proposals for a new legislative framework for the composition of the governing bodies of county, voluntary controlled and maintained special schools are designed also to ensure that no such governing body is too large, having regard to the size of the school. The larger the governing body, the more likely it is to be unwieldy and costly in operation; the less likely it is to enable any individual

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member to make a significant and worthwhile contribution to its work; and the less likely it is that sufficient persons will come forward to serve as parent governors to secure the objective that parent governors should form the majority of the governing body of a county and maintained special school and, together with the foundation governors, of a voluntary controlled school. It is therefore proposed to prescribe in legislation the total size of the governing body in accordance with the size of the school, and, within that total, to prescribe how many persons may be elected or appointed for each category of governor. The detailed proposals are as follows:-

(1) for a school with fewer than 100 pupils; a total of 9 governors composed of:-

- 5 governors elected by and from parents of registered pupils at the school or, in the case of a voluntary controlled school, 3 such parent governors and 2 foundation governors;
- 2 governors appointed by the maintaining LEA or, for county and controlled primary schools in shire counties or Inner London where there are minor authorities, 1 such LEA governor and 1 governor appointed by the minor authority or authorities (in the latter case, acting jointly);
- the headteacher
- 1 governor elected by and from the teachers at the school (a teacher governor).

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(2) for a school with 100-299 pupils, a total of 11 governors composed of:-

- 6 parent governors or, for a voluntary controlled school, 3 parent governors and 3 foundation governors;
- 3 LEA governors or, where appropriate, 2 LEA governors and 1 minor authority governor;
- the head teacher;
- 1 teacher governor.

(3) for a school with 300-599 pupils, a total of 15 governors composed of:-

- 8 parent governors or, for a voluntary controlled school, 5 parent governors and 3 foundation governors;
- 4 LEA governors or, where appropriate, 3 LEA governors and 1 minor authority governor;
- the head teacher;
- 2 teacher governors.

(4) for a school with 600 pupils or more, a total of 19 governors composed of:-

- 10 parent governors or, for a voluntary controlled school, 6 parent governors and 4 foundation governors;
- 6 LEA governors or, where appropriate, 5 LEA governors and 1 minor authority governor;

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- the head teacher;
- 2 teacher governors

In every case the head teacher may elect not to serve as a governor. There may be a few governing bodies on which more than one head teacher will be in membership (see, for example, paragraphs 24 and 27(1)). So that the proposed balance of membership is preserved, it is proposed that each such head teacher should have an appropriate fraction of a vote. Generally, it is proposed that no-one should be ineligible to become a governor by one route because he is also eligible to become a governor by another.

15. Some modifications are needed to these proposals in the cases of residential schools and maintained special schools where special considerations arise. To meet these the following proposals are put forward for consideration:-

(1) for residential schools (which might be defined as those where at least half the registered pupils were boarders), it might be impracticable to require parent governors to be elected. Instead the LEA might be required to fill the "parent governor" vacancies by appointing persons who are neither elected members nor employees of the authority, nor coopted members of its Education Committee. In making such appointments, the LEA might be required to have regard to the desirability of appointing persons who have children attending the school or who have children of compulsory school age.

(2) for maintained special schools, representation would seem to be required, within the prescribed total of governors, of special interests as follows:-

- (a) in the case of a maintained special school established in a hospital, one governor appointed by the

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District Health Authority which maintains the hospital;

(b) in other cases, one governor associated with the voluntary body concerned most relevant to the school's character, to be appointed by the LEA.

16. Apart from changing the balance between governors appointed by the LEA and those elected by the parents, the Government's proposals generally preserve the entitlements of the various parties to representation on governing bodies conferred by the 1980 Act. In the interest of limiting the size of governing bodies, the proposals do not leave scope for appointing additional categories of governor and for co-option. But parent governors may be expected to reflect a wide range of backgrounds and occupations, including local industry and commerce, and LEAs will be free to nominate governors with experience of the affairs of the community served by the school. In addition, governing bodies would be free to tap additional expertise by inviting observers to their meetings and creating advisory committees.

## Procedure

17. It is proposed that the size of a school, for the purposes of applying the appropriate formula for the constitution of its governing body, should be determined initially by the number of registered pupils on the date when the new arrangements come into force or, in the case of a new school, by reference to the size approved by the Secretary of State either under Section 12 or 13 of the 1980 Act or, for a maintained special school, under the appropriate Regulations made under the 1981 Act.

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18. Except for head teachers and, in the case of a voluntary controlled school, any ex-officio foundation governors, it is proposed to specify a standard 3 year term of office for governors and to leave it open for instruments of government to provide for appointments to be staggered. The size of the school which will determine the size of the governing body - see paragraph 14 above - would fall to be reviewed immediately before fresh elections (other than by-elections) or, where arrangements had been made for rotating membership, every three years. Where such a review required a reduction in numbers, this could probably be accommodated by normal turnover. Should this not be the case, the instrument of government would indicate how the necessary reductions should be made among the serving parent and teacher governors. For LEA and foundation governors, this would be a matter for the appointing body; where there is more than one body responsible for appointing foundation governors, the instrument of government would indicate how any necessary reductions should be apportioned between the bodies, and would also indicate such apportionment if an increase in the size of the school required an increase in the number of foundation governors.

19. As under Section 2(9) of the 1980 Act, it is proposed that detailed arrangements for parent and teacher governor elections should be left to the LEA to determine, with the provisos that, as now, any contested election must be held by secret ballot and that any by-elections should normally be held not more than annually.

20. It is possible that in some cases fewer parents will stand for election than the number of vacancies for parent governors on the governing body. To ensure that the governing

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body always contains sufficient members to discharge its functions properly, it is proposed to require LEAs to make appointments to fill any such unfilled vacancies for the normal period. In making such appointments, LEAs would be constrained in the same way as indicated in paragraph 15(1). When such a special appointment expires, the place would again be available for filling by election in the usual way.

21. Section 21(1) of the 1944 Act enables any governor to resign from office and allows an LEA or minor authority to remove from office any governor they have appointed. Section 4(1) of the 1980 Act empowers the Secretary of State to make regulations concerning the proceedings of governing bodies and governors' tenure of office: the Education (School Governing Bodies) Regulations 1981 SI 1981/809, as amended by SI.1981/1180, provide, inter alia, for a parent governor to cease to hold office if, at the beginning of a school year, he has no child who is a registered pupil at the school; and for a teacher governor to cease to hold office on ceasing to be employed at the school. No change is proposed in these provisions, though some minor adjustments of the current regulations might be needed for other purposes.

#### Inner London

22. After the publication of "Streamlining the Cities" (Cmnd.9063), the Department of Education and Science issued a consultative paper on 21 November 1983 on proposals for involving the inner London Boroughs in Inner London education. One of these proposals was that the new education authority for Inner London should have a reduced role in appointing school governors with a correspondingly increased role for

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the relevant Boroughs. That proposal has been overtaken by the proposals in this Green Paper. The proposed directly elected education authority for inner London should have the same powers of appointing school governors as those now proposed for LEAs in the rest of England and Wales, and the inner London Boroughs should have the same powers as other minor authorities.

### Grouping of schools under one governing body

23. The Government's proposals for the composition of governing bodies are intended to apply also to those relatively few cases where the governing body is responsible for more than the school. The 1980 Act which abolished the widespread practice of grouping many schools under one governing body gives the LEA discretion to group two primary schools (provided neither is a special school) under one governing body, provided that, if a voluntary school is involved, the grouping has the agreement of its governing body. The Government proposes to amend the Act so as to confine the LEA's discretion to a situation in which the two schools serve the same locality, when the parents who elect parent governors can be expected to have some common interest. All other arrangements to group schools under one governing body would continue to require the approval of the Secretary of State. The Secretaries of State intend to continue to give such approval only in exceptional cases since the governing body makes an important contribution to the Government's aim to give every maintained school a life of its own. Approval is likely to be given only where two schools work together so closely that a single governing body would adequately meet the distinctive needs of both.

24. In the Government's view, where a governing body is responsible for more than one school its size and composition should in principle be the same as if the grouped schools

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were a single school. It is proposed to apply this principle by legislation where the grouping does not require the Secretary of State's approval, except that the head teachers of both schools would be entitled to be governors with fractional votes as proposed in paragraph 14. Where the grouping requires the Secretary of State's approval, he would himself determine the size and composition of the governing body on the same principle.

#### Shadow Governing Bodies

25. A governing body with the composition proposed in paragraph 6 above could not be constituted as proposed until the school was in operation. Before then, however, many important decisions need to be taken, such as the appointment of staff, which will fundamentally affect the school. Such decisions are currently taken by the LEA in respect of new county, voluntary controlled and maintained special schools and by the promoters in respect of new voluntary aided schools. (The law does not allow for the creation of new special agreement schools).

26. The promoters of a new voluntary aided school may reasonably be regarded as a proxy for the school's governing body before the school is in operation, since they are the foundation which will be responsible for the school, and will subsequently appoint the majority of the governors; and because the governing body will employ the staff of the school. But if the LEA were to exercise the functions of the governing body of a new county, voluntary controlled or maintained special school before the school was in operation, it would be excluding from matters of great importance to the school those interests whom the Government now proposes to associate with such matters through the governing body. It is therefore proposed to provide in legislation for the creation of a shadow governing body for a new county, voluntary

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controlled or maintained special school to hold office until the appropriate elections of parent and teacher governors can be held when the new school is in operation.

27. The composition of the shadow governing body would be determined principally on the basis of the formula applicable to the planned size of the school. As to membership, a distinction might be made between completely new schools and new schools formed from the closure and amalgamation of two or more existing schools.

(1) For completely new schools, it is proposed that the places allotted to parent governors should be filled by persons appointed by the LEA, which would be required to have regard to the desirability of appointing parents of children likely to attend the school and subject to the constraints set out in paragraph 15(1) above; the head teacher governor's place might be left vacant until the head teacher is appointed; and the teacher governor places would be unfilled: other appointments would be made by the appropriate bodies.

(2) For other cases, it is proposed that the parent and teacher governors should be nominated to the shadow governing body by the governing bodies of the schools from which the new school is to be formed in proportion to their size; that the head teachers might each have a right to membership until the head teacher of the new school is appointed; other appointments would fall to be made by the appropriate bodies.

28. It is also proposed that provision would be made for a shadow governing body so constituted to function without an instrument of government, but to be subject to the Regulations governing such matters as the conduct of meetings and items affecting the interest of particular governors.

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29. Similarly, it is proposed to specify the functions of a shadow governing body so that it can operate without articles of government. Insofar as any matter arises for which the governing body will have a responsibility, that responsibility, it is suggested, should be exercised by the shadow governing body.

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## CHAPTER 3: POWERS AND RESPONSIBILITIES

30. The LEA, the governing body and the headteacher all have functions in relation to a maintained school, some of which are specified in the Education Acts or in Regulations made by the Secretary of State. The Government considers that the proposed reconstitution of governing bodies for county, voluntary controlled and maintained special schools will enhance the discharge of those functions so allocated to governing bodies. The remaining functions, which are substantial in the case of county, voluntary controlled and maintained special schools, are left for allocation by each school's articles of government. These documents thus provide a substantial part of the legal framework within which the LEA, the governing body and the headteacher must operate in respect of such schools.

31. The 1944 Education Act provided that articles of government for primary and maintained special schools should be made by the LEA; for county secondary schools by the LEA subject to approval by the Secretary of State; and for voluntary secondary schools by the Secretary of State. In respect of county secondary schools, a set of model articles of government was issued as a broad guide to LEAs in 1945. Since that time, articles of government have come to vary widely and now often diverge, whether by the actions of LEAs or successive governments, from the general intention of the Act. The Taylor Committee, reporting in 1977, assembled widespread evidence of a general failure of governing bodies to live up to their intended role. The variation in articles partly reflects local differences in approaching complex issues. But power has often shifted to the LEA and away from the governing body. In particular, LEAs have in many cases secured for themselves in the articles a general power to override all other duties and functions assigned under the articles. The exercise of such a power effectively reduces the governing body to a cipher.

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32. The Government believes that the present position is confusing, unsatisfactory for parents and teachers, and harmful to good education. To enable the schools to do their work to best effect, it is necessary to establish a distribution of responsibilities between the LEA, the governing body and the head teacher which clearly defines the functions of the parties and encourages each party to make its distinctive contribution to the success of the school. The Government therefore proposes to legislate for a new framework of responsibilities covering county, voluntary controlled and maintained special schools. The general principles which have informed its approach are that:

(1) On many aspects of the character and the running of each school the LEA should continue to have the final say.

The LEA must have all the powers necessary to carry out its statutory duty to secure the provision of sufficient and efficient schools for its area. It needs in particular the power to prescribe general policies for the overall effectiveness and management of the school system in its area;

(2) Subject to (1) the governing body should be able to determine, in consultation with the headteacher, the main policies and lines of development of the school. The intention is to establish a clear and more uniform basis for the powers and responsibilities of governing bodies which strengthens their role in relation to the school and ensures that they cannot be overridden in the exercise of their own legitimate functions;

(3) the professional responsibilities of the headteacher and staff of the school need to be respected. The aim is to secure legal foundation for the role of the headteacher, which clarifies his responsibilities and preserves his authority.

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33. The following chapters set out in detail the Government's proposals in respect of the main functions of the LEA, the governing body and the headteacher which are currently left to be settled in articles of government. In some cases, the proposals envisage a uniform approach specified in legislation and required to be followed for all schools. In others, the Government proposes to confer by legislation certain functions on governing bodies, leaving LEAs at their discretion to confer more than this minimum within articles of government made by them. Generally, the proposals provide for the same relationship between the LEA and the governing bodies of both primary and secondary schools: the Government does not consider that it would be right or appropriate in today's circumstances to differentiate in this respect between these two categories.

34. The distribution of functions proposed in the following chapters between the LEA, the governing body and the headteacher reflects the fact that the work of each complements that of the others. Each must also be adequately informed about what the others are doing. The Government believes that, as at present, the LEA should be able to call for reports from the governing body or the headteacher and that the governing body should, for its part, be able to call for reports from the headteacher. It is therefore proposed that the governing body should have a duty to furnish the LEA with such reports relating to the discharge of its functions as the LEA may require; and that the headteacher should be placed under a similar duty to furnish reports to the governing body and the LEA.

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## Chapter 4: Curriculum, conduct and discipline

### The Curriculum

35. A school's task is to equip pupils for adult life by developing all their qualities and talents. It does this by delivering its curriculum during and outside the time-tabled periods of instruction. The quality of what the pupils are offered depends on how good the curriculum is and on how effectively it is conveyed to each pupil. Since the performance of publicly financed, compulsory education concerns everyone, responsibilities for the school curriculum arise at national and local level, as well as at the level of the school. The Secretary of State, the LEA, the governing body, the heads and the other teachers each have a responsibility which complements and interlocks with those of the others; this interdependence is reflected, often imperfectly and not always with precision, in the present legal framework.

36. One important aspect of the school curriculum - religious education and worship at maintained schools - is governed by statutory provisions in the Education Act 1944. The Government does not propose to disturb these arrangements. The rest of this chapter is concerned with the secular curriculum in the maintained schools.

37. The Secretary of State influences the nature and pattern of what pupils in these schools are taught through the exercise of many of his functions, including the power to approve proposals for the pattern and character of maintained schools; the power to make regulations in respect of schools and teachers; the duty to secure an adequate supply of teachers and adequate arrangements for their training; the duty to cause inspections to be made of schools; limited powers to make grants for specific purposes; and the power to cause LEAs and governing bodies to remedy a default in respect of a statutory duty and to prevent them from exercising a function unreasonably. By virtue of his

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office he also influences policy on school examinations and the school examinations system and practice. In exercising these functions, which reflect his duty to promote the education of the people, the Secretary of State cannot but have a view, from a national standpoint, of the school curriculum and policies for the curriculum based on that view; and he answers to Parliament for both.

38. Subject to the responsibilities vested in the Secretary of State and in governing bodies and head teachers, the LEA's statutory functions also bear on the curriculum of the schools which it maintains. In particular the LEA has a duty to secure the provision for its area of sufficient schools to provide efficient education for all pupils in accordance with their ages, abilities and aptitudes; has a duty to maintain those schools to that end; and employs the teachers and other staff of maintained schools (except for voluntary aided schools). Since the LEA is accountable to its electors and ratepayers, it performs its functions, including those relating to the school curriculum, with an eye to local needs and wishes.

39. At the level of the school, the legal division of functions in relation to the curriculum is governed by the provisions of Section 23 of the Education Act 1944 and the articles of government of each school taken together. Responsibility is normally distributed between the governing body, the LEA and the headteacher in county and voluntary schools other than voluntary aided secondary schools. But that division of responsibility is often blurred and the application of articles of government has led to wide variation in practice. In some cases, the LEA has assumed a general power which enables it to override other provisions within the articles of government and so (in principle) to determine the curriculum; and in most cases the headteacher is given wide discretion to determine the curriculum in detail. In practice, teachers are generally free to exercise their professional skills so as to select the detailed content, and

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to employ those methods and approaches they judge to be most suitable to their pupils.

40. The Government believes that it is now necessary, in the interest of good education, to ensure that the LEA, the governing body, and the head teacher are in every case assigned those responsibilities which each is best qualified to discharge in partnership with the others. Such a division of functions needs to have regard not only to the constitutional relationship between the Secretary of State and LEAs, and the principles which govern the dual system, but also to two other matters which the Government believes to be important.

41. First, the fact that responsibilities for the curriculum are divided means that policies for the school curriculum have to be formulated at national level, at local level and at the level of the school. These policies should be compatible, and differentiated by the degree of detail and specificity required to take account of the needs of those served by the LEA and the school. They should be developed on the basis of discussion and consultation between the partners of the education service and with full regard to the needs and wishes of those whom it serves. The Government has accordingly taken three policy initiatives:

- (1) It has embarked, in consultation with all concerned, on a definition of the objectives for the school curriculum by subject area and phase with a view to a broadly agreed national policy for a curriculum which is broad, balanced, relevant to the world into which pupils are growing and differentiated in accordance with the abilities and aptitudes of each pupil.
- (2) The Secretaries of State have asked each LEA, by 30 April 1984, to report on its policy for the school curriculum and on how it establishes and applies it.

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- (3) The Secretaries of State have asked that each school should set out its curricular aims and objectives in writing, and monitor its own performance by reference to these.

42. Second, the distribution of responsibility for the curriculum at a school needs, in the Government's view, to establish a proper balance between the professional and lay influences which make for good education. Teaching each pupil in school is a professional task, to be carried out by those possessing specialised knowledge and with the training and experience to develop personal qualities and motivation, to impart knowledge and to foster skills, competence, understanding and acceptable behaviour. The LEA's professional staff contribute to this task by support and guidance to the schools, including arrangements for in-service training. But these professional processes are publicly financed, and serve parents, employers and the community as a whole as well as the pupils. They ought therefore to be subject to a measure of lay oversight and control. This is in part achieved through the elected members of the LEA who have a responsibility for the good education of all those in the area of the LEA. But there has long been an important role also for lay people in relation to each maintained school. That role should be discharged by the governing body, to be composed, on the Government's proposals, of persons, especially parents, who may be expected to take a close interest in the affairs of the school in question and reflect the views of those whom the school serves most directly.

43. With these objectives in mind the Government proposes to set out in legislation the following distribution of functions in relation to the curriculum of county, maintained special and voluntary controlled schools.

- (1) The governing body would have a duty to determine the statement of the school's curricular aims and objectives mentioned in paragraph 7 (3) above

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and to review that statement from time to time. In drawing up and reviewing the statement, the governors would have a duty

- (a) to seek the advice of the headteacher and
  - (b) to consult the LEA (in order that it might consider how far the proposed aims and objectives were consonant with its curricular policy for the maintained schools in its area).
- (2) The governing body would also have a power to call for reports from the headteacher on any matter relating to the curriculum or organisation of the school (as on other matters within his responsibility).
- (3) The headteacher would have responsibility for the organisation and delivery of the curriculum, within the available resources, having regard to the statement of aims and objectives determined by the governing body. The headteacher will naturally continue also to have a direct relationship with the LEA on curriculum matters, eg through the local advisory service.
- (4) The LEA would continue to have the responsibility for formulating and implementing the curriculum policy for its area. It would have the power to call for reports from the governing body or the head on any matter relating to the curriculum or organisation of the school, as on other matters. Taken together with the LEA's general duties in respect of the provision of sufficient and efficient education, this would amount to a duty to keep itself informed about the curriculum and organisation of its schools, with a view to using that knowledge in exercising its functions as the provider of resources for each

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school and the employer of the school's staff.

44. The Government believes that a division of functions on these lines would enable the head and the other teachers at the school to determine the content of the programme for any pupil and the methods of teaching that programme. But these programmes would have regard to the views of the governing body about the aims and objectives of the school's curriculum to the extent permitted by the resources made available by the LEA; and the LEA, through its control of resources and as the employer of the headteacher and other staff, would be able to ensure that the pattern of programmes offered to each pupil, but not the details, was in accordance with its curricular policy for the area.

45. Under these proposals the LEA's curricular policy, formulated in the light of broadly agreed national policies for the school curriculum, would provide the framework within which the governing body exercised its responsibilities for the curriculum. That framework would leave the governing body scope to determine the range and pattern of the school's curriculum (but not its organisation and delivery) in a manner consistent with the governing body's responsibility for the conduct of the school (see paragraphs 48-50). It is to be expected that these proposals would normally lead to constructive cooperation between the governing body, the head and the LEA in curricular matters for the benefit of the pupils, each party taking reasonable account of the views of the others. If the statement of the school's curricular aims and objects, which only the governing body could determine, was unrealistic in relation to the LEA's resource management or otherwise wholly incompatible with the LEA's curriculum policy, it would be unlikely to be given practical effect in what the pupils were taught. But the consultation about the statement between the governing body on the one hand and the LEA and the head on the other would provide an opportunity for open debate on the school's curriculum in which parents and other interested parties could join.

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46. These proposals are not intended to affect the arrangements made for a pupil with special educational needs who is the subject of a statement under the Education Act 1981, whether or not the school which he attends is a special school. For such pupils, any conflict between, for example, the school's statement of aims and objectives and the content of the statement under the 1981 Act would be resolved in favour of the latter.

47. Section 23 of the Education Act 1944 vests the control of the secular curriculum in the governing bodies of voluntary aided secondary schools (unless, as is sometimes the case, the school's articles of government provide otherwise) but not voluntary aided primary schools or special agreement schools. The Government believes that it is reasonable that all voluntary aided and special agreement schools should have responsibilities in relation to the secular curriculum which reflect their distinctive status. It is therefore proposed that the law should be amended so as to give the governing body of every voluntary aided and special agreement school control over the school's secular curriculum. The Government would expect the articles of such schools to assign to the head responsibility for the organisation and delivery of the curriculum. It would look to the governing body to cooperate with the LEA in the implementation of its curricular policy for the area, and to the LEA to consult the governing body on this matter. The LEA may be expected to apply its curriculum policy to the determination of the resources which it makes available to the voluntary aided and special agreement schools that it maintains.

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## The conduct of the school

48. Although a school's work centres on the delivery of a curriculum to its pupils, there are aspects of its work which go beyond that delivery, although they affect it. These aspects include the general appearance of the school; the rules and conventions which govern the behaviour of pupils and the relationship of pupil and teacher, between pupils, and between teachers; the attitudes towards the school, and the support for and understanding of its work, of parents, pupils and the local community and the school's success in explaining its work to those whom it serves and in consulting them effectively about it. Such aspects of a school's work, and there are others in this category, are customarily regarded as part of "the conduct of the school", and responsibility for this has generally been thought appropriate to the governing body.

49. Yet this responsibility affects, and is affected by, responsibilities which are appropriately assigned to other parties. The Education Acts in effect make the LEA responsible for determining both the general educational character of the county and special schools which it maintains, and the place of county, voluntary controlled and maintained special schools within the system of schools in its area. It is moreover normal for the articles of government of such schools to assign to the headteacher the control of the school's internal organisation, management and discipline. It is therefore necessary so to define the governing body's responsibility for the conduct of the school as to make that responsibility more than a nominal one, or a mere residual responsibility for matters not specifically assigned to other parties.

50. The Government proposes that legislation should make the governing body responsible for the general direction of the conduct of a county, voluntary controlled or maintained special

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school. It is probably neither feasible nor desirable to define "conduct" in detail in the legislation. But the Government would expect governing bodies to give a wide interpretation to their duties in this respect, and intends to issue guidance to this end in connection with the proposed legislation. Such guidance would take account of the views expressed in response to this Green Paper. It might encourage governing bodies, in consultation with the headteacher, to exercise a general oversight over how well the school's working methods were fostering its aims and objectives; how successfully the school planned for and adjusted to changes in circumstances; how far the school held appropriate expectations of staff and pupils; how well the school capitalised on its strengths and identified and tackled its weaknesses; and how effectively it consulted parents and others on such issues as pupil behaviour, discipline and school uniform.

## Discipline

51. One aspect of the conduct of a school - discipline - is particularly pervasive and liable to cause difficulties if those concerned disagree and there is no clear allocation of responsibilities. Articles of government currently blur this allocation and often give an override power to the LEA. The present arrangements have often proved satisfactory in practice. But they cannot be relied upon to work well in certain situations. For example, ill-defined responsibility about pupils' debarment from school has sometimes left children at home, receiving no education, for too long.

52. The Government believes that in large measure it falls to the headteacher to secure acceptable standards of behaviour throughout a school. In any clarification of functions, therefore,

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it is important to leave headteachers with discretion to deal with individual problems of discipline as and when they arise.

The governing body, however, should have responsibility for establishing guiding principles within which the headteacher operates. As discipline is an aspect of standards, the LEA too has an interest in this area so that it can discharge its duties relating to the provision of efficient education. In the Government's view this interest does not warrant LEAs having unspecified and broad powers to override governing bodies and headteachers in matters of discipline; but it does mean, for instance, that in the last resort LEAs should be able to step in to prevent a collapse of order in schools. And in all circumstances, LEAs' statutory duties in relation to admissions and attendance and their responsibilities as employers make it necessary for them to have clear functions in relation to disciplinary matters.

53. In the light of these general considerations the Government considers that it would be appropriate to legislate for a framework of functions for county, voluntary controlled and maintained special schools on the following lines:-

(1) in the interest of promoting positive attitudes towards life and other people the headteacher would have the duty of securing acceptable standards of behaviour from pupils by formulating and promulgating rules and other necessary means, including the use of disciplinary sanctions, to that end, having regard to such principles and guidance as the governing body may offer;

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(2) the governing body and the headteacher would be under a duty to consult the LEA on any disciplinary issue which may involve additional public expenditure (e.g. the wearing of school uniform) or affect the LEA's responsibilities as employer (e.g. supervisory duties which may conflict with agreed terms and conditions of service).

(3) if the headteacher debars a pupil from school for more than 3 days in any term, or if any debarment for any length of time would prevent a pupil from taking any public examination, the headteacher would immediately have to inform the governing body and the LEA. The governing body or the LEA would have power to direct the head teacher to terminate the debarment; any direction by the LEA in this respect would be binding on the governing body and the headteacher.

(4) the LEA, if it is satisfied that order in a school has broken down or is about to do so, would have the power to take whatever steps it sees fit to secure order.

54. The Government believes that there would be advantages also to voluntary aided and special agreement schools if the responsibilities of the governing body, the headteacher and the LEA were clarified and defined on the line proposed in paragraph 53. Moreover it is desirable, in the interests of pupils' attendance at school, to ensure that the arrangements for debarring pupils from voluntary aided and special agreement schools were in line with those prescribed for other maintained schools, having regard to the difference in the status of each category of school. The Government invites views on both these matters from the voluntary bodies and others.

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## CHAPTER 5: APPOINTMENT AND DISMISSAL OF STAFF

55. The selection of teachers and other staff employed at a school, and their subsequent performance, are crucial to the standards of the school. These matters closely concern the LEA and the governing body. They bear on the LEA's general responsibility for securing the provision of sufficient and efficient schools for its area, and its resultant responsibilities in relation to the curriculum of these schools. They bear also on the governing body's responsibilities for the conduct and curriculum of the school.

56. In the case of county, voluntary controlled, special agreement and maintained special schools, the LEA is the employer of the staff and has therefore to discharge those functions which only the employer can perform. As employer, the LEA enters into a contract of employment with teachers and other staff; determines the terms and conditions of employment; takes action if disciplinary measures or dismissal are contemplated; and is responsible for responding to any complaint of unfair dismissal made to an Industrial Tribunal. Like any other employer, the LEA has to manage its employees; its statutory functions require that responsibility to be exercised in the interest of securing good education, within the resources available, in all the schools which it maintains.

57. The Government believes that legislation should ensure that both the LEA and the governing body have responsibilities in relation to the selection, appointment and dismissal of teachers and other staff which reflect, and are compatible with, their other responsibilities. Yet many articles of government, like the 1945 model articles, are now inconsistent with LEAs' responsibilities as employers. Many articles also do not do justice to the legitimate interest of the governing body or of the LEA. There is a need to define the respective responsibilities of the governing body and the LEA. The following paragraphs

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set out the Government's proposals for a new framework, to be established by legislation, to determine the relative responsibilities of the LEA, the governing body and the headteacher in matters concerning the appointment and dismissal of teaching and non-teaching staff. The arrangements proposed would apply to county, voluntary controlled and maintained special schools. Because the LEA also employs the staff of special agreement schools, such schools would also come within the scope of the proposals.

## Appointment and dismissal of Teaching Staff

### i. Headteacher appointments

58. The selection and appointment of a headteacher is among the most important acts affecting a school. The Government believes that it is right to ensure a powerful and effective influence for the governing body at every stage of the selection process.

It therefore proposes legislation to establish a uniform procedure leading up to the appointment of the head teacher of county, voluntary controlled, special agreement and maintained special schools on the following lines:

(1) The LEA would advertise the vacancy publicly. The Government believes that the need to secure the best possible person as headteacher should take precedence over any wish by an LEA to retain promotion opportunities for its staff in the interests of effective management and morale.

(2) The selection process would be managed by a joint panel comprising an equal number - not less than 2 - of governors and LEA nominees (although the LEA would be free to allow additional governor representatives to serve on the panel). The panel would control the process leading to the establishment of a list of persons for final interview. If agreement could not be reached on such a list, the governors

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and the LEA nominees would each collectively have the right to nominate not more than two applicants for inclusion in the list. The panel would be required to recommend one candidate to the LEA for appointment.

(3) The LEA would appoint the recommended candidate unless in its capacity as employer it declined to do so. In that event the panel would be required to recommend another candidate either from those already considered or after a fresh advertisement followed by the same procedure.

59. The only exception to these arrangements would be the case of appointments to be made as a result of approved statutory proposals for the reorganisation of school provision. In such a case it would seem sensible to enable the LEA, after consulting the governing body concerned, to appoint to a newly reorganised school a head teacher who would otherwise be displaced as a result of such reorganisation.

## ii. Appointment of Other Teachers (excluding Deputy Heads)

60. Although the appointment of the head teacher is the most critical for the school, the appointment of other teachers is also of great importance. In the Government's view, however, it is permissible and, if sensitively managed, educationally desirable for the management responsibilities of the LEA for deploying its teaching force economically and in the best interests of all the schools it maintains to take precedence over the interest of the individual school to secure the best possible teachers to fill vacancies as these arise. As school rolls continue to fall in many areas, effective career management and deployment of assistant teachers will be at a premium and it seems sensible at this level of appointment for the balance between the LEA and the school to incline towards the LEA's wider management needs. But account must be taken of the interests of the school and the Government, therefore, proposes a standard procedure on the following basis:-

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(1) When any teaching post becomes vacant, the LEA would decide whether it remained a complemented post and, if so, whether it should be filled by open advertisement or from a recruitment or redeployment pool or by the redeployment of a teacher from another school.

(2) Where the post is to be advertised, the governing body (delegating to the headteacher if they deemed it appropriate) would be responsible for short-listing, interviewing and recommending an applicant to the LEA for appointment. The LEA would have the right to participate through a representative at all stages in the selection process and, in its capacity as employer, could decline to appoint the recommended person. In that event, the governing body would recommend another person, following the same procedure if a new advertisement were needed.

(3) Where the post is not to be advertised, the governing body would have the right to draw up a specification for the post which the LEA would have a duty to take into account in offering candidates for consideration. If the governing body was unwilling to accept any of those offered for consideration, the LEA would have a duty to consider its representations. If the governing body persisted with its objection, a formal resolution of the Education Committee would be required to overrule it.

61. The proposals outlined above cover the appointment of almost all teachers, including part-time teachers employed exclusively at one school. There remain some who are not employed exclusively at one school, such as peripatetic staff and supply teachers. The governing body of an individual school has no formal locus in relation to such staff and it is proposed that their appointment and dismissal should be matters solely for the LEA.

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## iii. Deputy Headteachers

62. Existing articles of government normally make no distinction between deputy headteachers and other assistant teachers. Most schools have a designated deputy head (and some have more than one). The importance of the post varies greatly in scale and managerial responsibility. In many cases, particularly in secondary schools but also in some large primary and middle schools, the deputy head occupies a key position in the senior management team of the school. The appointment of deputy head teachers may also have significance for the LEA's policies for the professional development of future headteachers. In some cases it may be preferable for a deputy headteacher to be appointed by the same procedure as headteachers; in other cases, such a procedure may be over-elaborate. The Government inclines to the view that legislation should leave the LEA discretion to adopt either the headteacher or the assistant teacher procedure in accordance with the circumstances of the particular school or classes of school concerned.

## iv. Dismissal of Teaching Staff

63. Dismissal and the conduct of procedures leading to dismissal are an employer matter. Existing articles of government which state that the LEA cannot dismiss except on the recommendation of the governing body are incompatible with the LEA's responsibilities as employer. The Government considers that the interest of the governing body in the effectiveness of teachers employed in its school can best be recognised by placing a duty on the LEA when contemplating the dismissal of any teacher (including a headteacher) to consult the governing body. The LEA should also have a duty to consider any views put forward by a governing

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body that a teacher should be dismissed. Present provision in articles of government whereby a recommendation to dismiss the headteacher requires two resolutions of the governing body, the second not less than 14 days after the first, seems inappropriate given that it must be for the LEA itself subsequently to satisfy itself about the grounds for dismissal following any such view expressed by the governing body. The governing body should also have power to suspend a teacher, but only until such time as the LEA decides on the action to be taken. The headteacher should not be permitted to suspend an assistant teacher except with the agreement of the governing body.

## v. Other Teacher Management Issues

64. Some management decisions by the LEA, taken in the interests of the overall efficiency and quality of its teaching force, may mean the loss of a teacher's services to the school, particularly decisions about probation, premature retirement, redundancy and redeployment. In all these matters, the governing body has an interest and should be able to make its views known to the LEA. To ensure that the governing body can influence decisions about premature retirement, redundancy or redeployment, it is proposed to place the LEA under a duty to consult the governing body on such matters. In the case of probation for new teachers, it is proposed that the LEA should be required to consult the headteacher and the governing body before any decision is reached on the outcome of a new teacher's probation. The Government would expect regular consultation to take place between the LEA and the headteacher about the professional development of the teachers within the school, including in-service training.

## Non-Teaching Staff

65. Many of the considerations discussed in relation to teaching

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staff apply also to non-teaching staff. Many existing articles of government for county, voluntary controlled, special agreement and maintained special schools, like in the 1945 model, are no longer compatible with the LEA's employment responsibilities.

Moreover some articles of government unnecessarily restrict the role of the governing body or give it no role.

66. The Government believes that it is necessary to change the present arrangements on the following principles:

(1) As the employer of non-teaching staff in county, voluntary controlled, special agreement and maintained special schools, the LEA must have the responsibility to make appointments. Equally, while dismissal by the LEA could flow from a recommendation of the governing body, the LEA's powers of dismissal cannot be so confined that they may operate only on a recommendation from the governing body.

(2) The governing body should be closely involved in the selection of non-teaching staff for appointment by the LEA. In the case of certain specialised staff, including caretakers, laboratory assistants, librarians, child care staff and electronics and computer technicians, the governing body should consult the LEA before undertaking the process of selection, since knowledge of the LEA of such specialised posts may be essential for a satisfactory appointment. In such cases the LEA should also be able to require that the appointment be made from a pool of people already in the local authority's service, in the interest of effective staff management.

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(3) The responsibility of the governing body should not normally extend to non-teaching staff who do not form part of the normal complement of the school. For example, it is usual for school meals staff to be appointed centrally by the LEA and for the governing body to have no direct responsibilities in practice for meals provision. It is also common for maintenance staff (including groundsmen) to form part of a local authority direct labour organisation.

In such cases it would not seem appropriate for the governing body to have a role in the appointment process.

67. The Government proposes that the powers of the LEA and the governing body of county, voluntary controlled, special agreement and maintained special schools should be set out in legislation so that:

(1) Subject to the LEA's right to determine each school's complement of non-teaching staff, such staff would (subject to ii. below) be selected for appointment by the governing body after consulting the headteacher and the LEA; the LEA would then make the appointment unless it considered the person selected unsuitable.

(2) The LEA would be empowered to require that the governing body select from a pool of candidates already in the authority's service.

(3) Dismissal of non-teaching staff would be the responsibility of the LEA after consultation with the governing body and the headteacher. The LEA would have a duty to consider any recommendation for dismissal from the governing body.

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Clerk to the Governing Body

68. The 1945 model articles provided that the Clerk to the governing body should be the chief education officer or such other person as may be appointed by the LEA. The view at the time was that it would be usual in county, voluntary controlled and special agreement schools for the chief education officer or his representative to be the clerk and that, in view of the growing complexity of school business and the need for close cooperation with the LEA, there would be advantage in following the same practice in voluntary aided schools, particularly where the circumstances did not justify the services of a full-time clerk. In practice, some articles of government for county schools make no provision at all for the appointment of the clerk. Where they do, appointment is usually by the LEA, after consultation with the governing body in some cases. In the case of voluntary controlled and special agreement schools, most articles provide that the clerk should be appointed by the governing body after consulting the LEA and that dismissal should be by the LEA on the recommendation of the governing body.

69. The Government recognises that its proposals for the composition of the governing bodies of county, voluntary controlled, and maintained special schools will mean some immediate loss of expertise on governing bodies and fairly frequent changes of membership. This adds strength to the case for ensuring that the governing body can be assured of the services of a clerk with adequate knowledge and experience of the LEA's operations. On the other hand, the ability of the governing body to exercise the wide responsibilities proposed for it would be impaired if its clerk were imposed upon it by the LEA. Nobody's interests, least of all those of the school, would be served if the governing body was obliged to accept a clerk in whom it had no confidence.

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In the Government's view, it would seem necessary to recognise the position of the governors of county and maintained special schools by requiring the LEA to consult the governing body before appointing the clerk and by requiring it to consider a recommendation from the governing body to dismiss the clerk. In the case of those voluntary controlled and special agreement schools where articles of government now provide for the governing body itself to make the appointment after consulting the LEA, the Government would not wish to disturb the present practice, unless there is substantial evidence that this arrangement has worked badly. The Secretary of State would therefore expect to use his proposed power in relation to the making of articles of government for these schools to preserve the present position.

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## Chapter 6 Finance and Premises

70. The Education Acts place the LEA under a duty to defray the costs of maintaining the county, voluntary controlled and special schools for which it is responsible. In the Government's view the LEA should continue to determine the total expenditure which it should incur in respect of each such school in the light of all its statutory duties. But what is spent on a school and how it is spent affects the quality of the education offered by the school. Both these matters are therefore of concern to the governing body. The Government believes that means need to be found of reconciling the governing body's legitimate interest in the finance of the school with the LEA's duties.

71. To begin with, the governing body ought to be aware of what is actually being spent on the school. The Government therefore proposes that the LEA should be required annually to provide the governing body with an itemised statement of its recurrent expenditure on the school so as to enable the governing body to form a judgement on whether that expenditure was providing value for money.

72. The LEA can discharge its duty to maintain a county, voluntary controlled or special school without having itself to determine the distribution of expenditure within the school. It is normal for LEAs to allot a sum to individual schools eg by way of "capitation" which the school can then spend at its discretion on a specified range of purposes. The 1945 model articles envisaged the possibility that the governing body might in some measure determine the distribution of expenditure, but did not recommend that it should have this right. The Government now proposes to confer such a right on the governing body of a county, voluntary controlled or maintained special school, by requiring the LEA annually to allocate to each such governing body a sum which the governing body would spend, at its discretion, on books, equipment and stationery, subject

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to any financial rules which the LEA might draw up. The purpose of this proviso is to enable the LEA, for example, to prescribe maximum expenditure on one of these 3 items, to require purchases to be made under the LEA's central purchasing arrangements, or to reserve to the LEA the responsibility for supplying large or specialist items or items required for a particular aspect of its curriculum policy.

73. The proposed requirement would be a minimum. The Government intend the LEA to be free to allot to the governing body sums to be spent at its discretion on other items wherever the LEA considers, as many LEAs now do, that such an arrangement could increase value for money. It would be open to the governing body to delegate the expenditure of any allotted sum to the headteacher, who would account to the governing body for the exercise of that discretion.

74. Governing bodies may from time to time be asked to spend on behalf of the school money received from, for example, the parent-teacher association or a local community association. It is proposed to require a governing body formally to account for the use of such money; this might conveniently be done in the proposed annual report to parents (see chapter 8).

75. These proposals relate to county, voluntary controlled and maintained special schools. The Government believes that there would be advantage if the rights of governing bodies of voluntary aided and special agreement schools were to be similarly extended, and invites views on this from those concerned.

## Premises

76. Responsibility for the adequacy, safety, and upkeep of the premises of county, voluntary controlled and maintained special schools rest with the LEA under the Education Acts and the legislation governing health and safety at work. This should, in the Government's view, remain the position. But the condition of the premises affects the quality of what a school can offer and is therefore of interest to the governing body.

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The Government hopes that LEAs will continue to be ready to consider representations on this matter from the governing body and, in appropriate cases, to involve it in arrangements for keeping the school's maintenance needs under review and to authorise it to incur expenditure on urgent repairs within such arrangements as the LEA may make for allocating sums to be spent by the governing body at its discretion.

77. The Government also believes that governing bodies are well placed to ensure that the community served by the school is offered a reasonable opportunity to make use of the school's premises out of school hours so that this public asset is as fully utilised as is practicable within the resources available. It is therefore proposed to provide in legislation that the use of the premises of the county or maintained special school out of school hours should be under the control of the governing body. But this control would be subject to any direction which the LEA decided to give to the governing body, so that the LEA can safeguard its position in relation to resources and can itself use the premises for non-school purposes eg adult education or youth work.

78. Under this proposal the position in relation to county and maintained special schools would become similar to that which now obtains in relation to voluntary controlled schools under Section 22 of the 1944 Act, and which it is not proposed to change.

79. The position of voluntary aided and special agreement schools with regard to their premises is established by the Education Acts both in respect of repairs and maintenance and of use out of school hours. The Government has no proposal to change that position.

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## CHAPTER 7: ADMISSIONS

80. The admission of children to maintained schools (other than nursery schools and classes) has been the subject of two recent Acts. The Education Act 1980 relates to admissions to county and voluntary schools, except where the child is the subject of a statement of special educational needs under the Education Act 1981. That Act relates to the admission of such children to any school, including a maintained special school.

81. Sections 6 and 7 of the Education Act 1980 established for the first time that parents are entitled to express a preference as to the schools their children are to attend. Those preferences are required to be met except in certain specified circumstances (for example, where a school is over-subscribed) and parents may appeal against the admission decision under new local arrangements.

82. So that parents' preferences may be properly informed, Section 8 of the 1980 Act requires information to be published about the schools and their detailed admission arrangements. The Act allocates responsibility for publishing this information to the LEA in the case of county and voluntary controlled schools, and to the governing body in the case of a voluntary aided or special agreement school. The actual admission arrangements to be so published are those determined locally under the articles of government: typical articles for a county school provide for admissions to be in accordance with arrangements made by the LEA; in the case of a voluntary school, responsibility is normally vested in the governing body but with the requirement that it acts in accordance with arrangements agreed with the LEA. The consequent diversity of practice is accommodated by the 1980 Act.

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83. The Government does not propose generally to disturb the legal framework for admissions that has been established so recently. It does, however, propose one change. When the LEA determines (or agrees, as the case may be) admission arrangements for the county and voluntary schools it maintains, it does so in the discharge of its duty to secure the provision of sufficient and efficient education for its area. But admission arrangements also affect the life of each school, and the Government believes that each governing body should be guaranteed a voice in their formulation. It therefore puts forward two complementary proposals. First, before publishing the required information for parents, the LEA should be required annually to consult the governing body of every county and voluntary controlled school in its area on the admission arrangements affecting their schools; second, the governing body of a voluntary aided or special agreement school should similarly consult the LEA before publishing its admission arrangements.

84. In the Government's view, there is room for articles of government to be more explicit than at present in allocating admission responsibilities (perhaps particularly in differentiating between drawing up arrangements and administering them) without, in so doing, eroding any existing responsibilities of the governing body. The Government hopes that both these principles will be observed in the revision of articles of government entailed by the proposals in this Green Paper. The Secretary of State would expect to use his proposed power in relation to the making of articles for voluntary schools (see Chapter 10) to preserve the existing powers of governing bodies in relation to admissions.

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## Chapter 8 Governing body's annual report and parents' meeting

85. The proposals in this Green Paper will substantially increase the influence of parents in the life of county, voluntary controlled and maintained special schools. That influence will be exercised through a few parents acting as the elected representatives of parents whose children are registered at the school. In the Government's view, means should also be found of associating the whole parent body with the affairs of the school, and in particular with the work of parent governors. The Government proposes two new measures to this end. Both are designed to strengthen the accountability of the governing body to every parent; in some cases they would in effect formalise existing informal arrangements.

86. First, it is proposed to require the governing body of a county, voluntary controlled or maintained special school to issue free of charge an annual report to every parent about the discharge of its functions and about such other matters affecting the school which it thinks fit to include. The length, format and detail content would be left to the discretion of the governing body. But the Secretaries of State would issue guidance to governing bodies, which would, for example, encourage them to include in the annual report information about the membership of the governing body, the itemised statement of the costs of the school furnished by the LEA (see chapter 6), and, where appropriate, the results of public examinations. The report would also be expected to announce the arrangements for the next parents' meeting (see below) and the action taken on any resolutions or other matters arising from the last such meeting.

87. The report would be required to be sent to all parents whose children were registered pupils at the school. Copies would also have to be available for reference at the school by other persons. Governing bodies might also be required to have regard to the desirability of providing copies of the report in a language other than English or, where appropriate, Welsh.

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88. Second, the Government proposes to require the governing body annually to call a meeting of parents which the parents of every registered pupil would be entitled to attend. The purpose of the meeting would be:

- (1) to discuss the annual report and other matters relating to the life of the school;
- (2) to enable parents present to pass resolutions (by a simple majority of votes cast) which the governing body would be required to consider (or, as appropriate, pass to the LEA or headteacher for their observations), and then report back to parents on the action taken.

The meeting might also be an appropriate occasion at which to hold elections for parent governors.

89. Paragraph 15 noted the difficulty there could be for residential and hospital schools in electing parent governors and proposed alternative arrangements. There would be comparable difficulties in calling an effective annual meeting of the parents whose children attend such schools. It is proposed that, for these schools, the requirement for an annual parents' meeting should be waived. The governing body would still have to send the parents an annual report. It is also proposed that parents should have the right to submit any comments or suggestions in writing for consideration by the governing body or for transmission by it to the LEA or head teacher as appropriate. These proposals may require some modification in relation to hospital schools; the Government would be glad to receive comments on this aspect.

90. In the Government's view, there is a case for increasing the accountability of the governing body to the parents on the lines proposed also in relation to voluntary aided and special agreement schools. It seeks the views of all concerned on this possibility.

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## Chapter 9: The effectiveness of governing bodies

91. Membership of the governing body of a maintained school is an important form of public service, which the proposal in this Green Paper will make still more significant. It is in the public interest that those who perform this service should be adequately equipped for their task. Recent research has shown that governors of maintained schools are often inadequately informed or trained for the effective discharge of their responsibilities. The Government therefore proposes a number of measures to enhance the effectiveness of governing bodies of county, voluntary controlled and maintained special schools.

### Information

92. A governor of such a school needs to understand what his job is. For that he needs not only to be familiar with the school's instrument and articles of government, but also to be aware of those responsibilities of the governing body which arise from legislation, and to have some understanding of such matters as the nature of the maintained school system, the organisation and policies of the LEA and the pattern of school provision in the area. Many LEAs now take steps to inform governors on these lines, but practice is not satisfactory in all cases. The Government therefore proposes to place a duty on every LEA to give to every governor of a county, voluntary controlled or maintained special school, on taking office, a copy of the school's instrument and articles of government and such further explanatory material as the LEA considers requisite. The LEA would be required to supplement the formal documents with additional material but its nature and content would be left to the LEA's discretion, though the Secretaries of State would be ready to offer guidance on this point.

### Training

93. The responsibilities proposed in this Green Paper for governing bodies are so important and complex that a governor

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cannot be expected to discharge them effectively without some training going beyond the normal process of picking up the job by doing it. That process is by itself relatively slow to act and could in this case serve to perpetuate unsatisfactory practice. Some LEAs now provide some training for governors. The Secretaries of State propose to seek fuller information about present provision for this in the Circular which they intend to issue later this year about the implementation of the 1980 Act provisions on school government (see paragraph 9). But it is clear that the current arrangements for training governors are uneven and not everywhere satisfactory.

94. The Government therefore proposes to place a duty on LEAs to provide such training for governors of county, controlled and maintained special schools as they consider requisite. The training need be neither elaborate nor costly: the Government has funded developmental work on training materials through the Open University and is considering the possibility of offering financial support for pilot projects in order to develop models of good practice.

95. In the Government's view, it would be unreasonable to expect governors to pay for the information and training with which they need to be provided for the effective discharge of a voluntary public service. LEAs are best placed to estimate the total additional cost to LEAs of this provision: it might be about £2m a year, with a rather higher cost in the first year. The Government considers that this expenditure should be met within the resources available to authorities in the relevant years.

## Meetings of the governing body

96. Regulation 10(1) of the Education (School Governing Bodies) Regulations 1981, S.I. 1981/809, requires the governing bodies of a school to meet at least once a term. In many cases meetings are held no more frequently than this. The Government believes that such a practice is likely to do less than justice to the size of the task and to cause that task to be fulfilled in too mechanical a fashion, with standard agendas and a routine approach

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which discourages fresh thought. It is therefore proposed that, in addition to the meeting required each term, the governing body of a county, voluntary controlled or maintained special school should be required to hold a fourth meeting in each year. Governing bodies would be free, as now, to meet more frequently than is required by law.

97. Formal meetings of the governing body are only one way in which governors discharge their responsibilities. If a governing body is to be effective, its members should, in the Government's view, involve themselves individually with the activities of the school by a variety of informal means. Moreover much preparatory or detailed work can be done by sub-committees of the governing body, in which persons who are not governors can participate and so bring additional knowledge and experience to the work of the governing body. The Secretaries of State would propose to issue guidance on these matters when the proposed legislation comes to be implemented.

98. The Government recognises that lively and effective governing bodies, meeting at least 4 times a year, are likely to give rise to some additional administrative expenditure by LEAs. In the Government's view, this expenditure will contribute to improving standards in schools and should be met by redeploying resources from other purposes.

## Voluntary aided and special agreement schools

99. The Government sees advantages in applying the principle of the proposals in this Chapter also to voluntary aided and special agreement schools. It would welcome the views of all concerned on this possibility.

## Allowances for Governors

100. No allowance is currently payable to governors of schools or further education institutions as such. But where governors are also councillors or co-opted members of an authority, their service on governing bodies may be considered as "approved duty"

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under section 177(2)(b) of the Local Government Act 1972. This entitles them to receive attendance allowance, financial loss allowance and reimbursement of travelling and subsistence costs. Other governors have no entitlement to any such allowances.

101. To remove this invidious distinction between different categories of governor and because of doubts over the vires of present payments, the Government has already announced its intention to legislate at the first convenient opportunity for a new framework for allowances payable to governors of schools and further education establishments. This opportunity would appropriately be the legislation implementing the proposals in this Green Paper.

102. The general principle underlying the proposed framework is that service as a governor should be regarded as voluntary service without regard to the nature of any body which may have appointed him. At the same time it is accepted that governors should not be required to suffer financially because of such service and that travelling and subsistence costs, particularly in rural areas and in respect of further education establishments, could even be a disincentive to service as a governor. It is therefore proposed that:

- (1) LEAs will be empowered, but not obliged, to pay travelling and subsistence allowances to governors of maintained schools and further education establishments;
- (2) while there may be differentiations between different categories of institutions, there may be none between the governors of a particular institution;
- (3) LEAs will have discretion to disallow excessive and trivial claims by setting upper and lower mileage limits;
- (4) legislation will stipulate that service as a governor

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does not entitle councillors or co-opted authority members to any allowances in that capacity.

103. The Government believes that these arrangements will be broadly neutral as to cost: the extension of travelling and subsistence allowances (which will be discretionary) is likely to be offset by the removal of the more expensive attendance and financial loss allowances.

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## CHAPTER 10

### THE MAKING OF INSTRUMENTS AND ARTICLES OF GOVERNMENT

104. The proposals in this paper make it necessary to make new instruments of government (setting out the constitution of governing bodies) for the 23,500 county, voluntary controlled and maintained special schools, and new articles of government (allocating the functions to be exercised) for these schools and for many of the 4,600 voluntary aided and special agreement schools. This chapter is concerned with the procedures for making these two classes of document.

105. Under Section 17 of the 1944 Act and Section 2 of the 1968 (No.2) Act, instruments of government currently fall to be made by the LEA in respect of county and maintained special schools and by the Secretary of State in respect of voluntary schools. Articles of government are made by the LEA in respect of county and voluntary primary schools, all maintained special schools and, subject to the approval of the Secretary of State, county secondary schools. The Secretary of State makes articles of government for all voluntary secondary schools. Apart from the requirement to secure the Secretary of State's approval of articles of government for county secondary schools, the Education Acts do not specify the procedures to be gone through by the LEA before it makes instruments or articles of government. In the case of those instruments and articles falling to be made by the Secretary of State, Section 17(5) of the 1944 Act requires him before making the relevant order to consult the LEA and others concerned with the government of the school, and also to have regard to the manner in which an existing school has been previously conducted.

106. The proposals in this Green Paper would mean that the major issues concerning the constitution of governing bodies and their functions would be prescribed in statute for every category of maintained school. In the Government's view, this

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makes the present range of procedures for making instruments and articles unnecessarily elaborate. A simpler and more uniform set of procedures should be possible which would make for the coherent implementation of the new arrangements in each area.

107. It is therefore proposed to remove the requirement that county secondary school articles of government should be approved by the Secretary of State, and to devolve to the LEA the making of instruments of government for all voluntary schools and the making of articles of government for voluntary secondary schools. The LEA would thus become responsible for making instruments and articles of government for all the maintained schools in its area. But before making either document, the LEA would be required to consult the governing body of the school concerned, because of the importance of the document for the work of the governing body and of the school. Procedures on these lines would be straightforward to operate. Their initial application would require a temporary expansion of administrative effort.

108. However, the distinctive status of voluntary schools makes it essential, in the Government's view, to apply certain additional provisions to the procedures under which LEAs would make the instruments and articles of government of such schools. It is therefore proposed that LEAs would be required:

(1) in making or amending an instrument or articles of government for a voluntary school, to have regard to the way in which the school has been previously conducted and, before making the requisite order, to agree the proposal with the governing body or, in relation to a proposal dealing specifically with foundation governors, with the foundation governors then serving on the governing body;

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(2) to consider proposals from the governing body of a voluntary school for amending its instrument or articles of government.

In the absence of agreement under (1), it is proposed that the matter should be resolved with binding effect by the Secretary of State.

109. In the case of new schools, the duties placed on the LEA under paragraphs 107 and 108 in relation to the governing body would be exercisable in relation to the shadow governing body (see Chapter 2) or, in the case of a new voluntary aided school, to the promoters.

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## CHAPTER 11: THE VOLUNTARY SECTOR

110. The proposals in this Green Paper are designed to strengthen the dual system of county and voluntary schools established by the 1944 Act. The far-reaching changes proposed for the composition and functions of the governing bodies of county and voluntary controlled schools will, in the Government's view, help each category to improve the service it offers in accordance with its distinctive status, which the proposals preserve. As far as voluntary aided or special agreement schools are concerned, the proposals offer the possibility, on which the Green Paper invites views, of certain minor modifications in the legal framework relating to such schools which could enable these also to perform their distinctive role to still better effect.

111. The proposals so far described do not affect the pattern of provision of any category of school. The Government believes that this pattern should continue to develop in the light of the circumstances of each area, including the need to offer parents a choice of category to the greatest practicable extent. But there is one aspect of such choice where it might now be appropriate to introduce a small additional measure of flexibility. Under Section 15(4) of the 1944 Act, a voluntary aided school may become a voluntary controlled school, but the reverse change of status is not possible. The Government believes that the dual system would be strengthened if a change from controlled to aided status were to be permitted in certain circumstances, subject to appropriate safeguards, and seeks comments on whether this change might now be made on the basis of the scheme outlined below.

112. Many voluntary controlled schools assumed their controlled status following the 1944 Act because they could not then accept the financial obligations of a voluntary aided school. Other schools subsequently reverted from aided to controlled status

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because the governing body was unable or unwilling to carry out these obligations in the light of circumstances at the time. Changed circumstances or new resources available to the foundation might now permit the governing bodies of a few voluntary controlled schools to meet all the necessary financial conditions of aided status.

113. Changing a voluntary controlled school into an voluntary aided school would affect the balance of school provision in the area, since the character of the school would be changed.

The Government therefore believes it right that the procedure for acquiring aided status should not merely involve a proposal by the governing body of the voluntary controlled school and a decision by the Secretary of State but should also provide opportunities for public discussion within the area concerned.

It would seem appropriate to use procedures analogous to those under Section 13 of the Education Act 1980 (which applies where the governing body of a voluntary school wishes to change the character of the school). It is therefore suggested that:

(1) the governing body of a voluntary controlled school seeking aided status would be required to consult first with its maintaining LEA. The views of the LEA on the proposed change and its effects on local provision would be important, given its responsibility for its area. The LEA would not have the power to prevent the governing body from making the proposal, but the Government presumes that the governing body would not normally wish to proceed in the face of LEA opposition.

(2) If the governing body decided to proceed, it would publish statutory proposals enabling those in the locality (including the LEA and other voluntary schools) to make objections.

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(3) It would then be for the Secretary of State to consider the proposals in the light of any objections. Part of the evidence that the Secretary of State would require in support of the proposals would be a demonstration by the governing body that it could meet the immediate and continuing financial obligations of aided status.

(4) If the Secretary of State approved the proposals, the way would then be open for the making by him of an Order conferring aided status.

114. The Government envisages that during initial discussions with the LEA, the governing body would agree appropriate compensation to the LEA for their expenditure on the school over the years which, had it been a voluntary aided school, would have been the governors' responsibility. At most, if not all voluntary controlled schools, the LEA will have incurred some recurrent expenditure on ordinary maintenance. At some schools the LEA may also have undertaken capital work ranging from minor projects to major adaptations and extensions. In the case of a voluntary controlled school established under the 1953 Education Act, the LEA will have bought the school site and borne the whole cost of erecting the school premises. In these various circumstances, it would not be simple to settle the appropriate compensation. The Government believes that it would be reasonable not to require the LEA to be compensated for the recurrent expenditure incurred, but that it should be compensated in respect of capital expenditure by an amount agreed between a valuer appointed by the LEA and a valuer appointed by the governing body; failing such agreement, the amount would be determined by the Secretary of State after considering the report of an independent valuer appointed by him.

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115. Expenditure by the governing body of a voluntary aided school on the provision of a site or school buildings is normally eligible for up to 85% grant. The Government would not, however, consider it reasonable to pay grant to a governing body to buy out those parts of an existing voluntary controlled school which had already been provided from public funds. It would expect the initial costs of any proposal to seek aided status to be borne by the governing body of the voluntary controlled school. Any subsequent expenditure by the governing body would become eligible for grant.

116. The Government proposes thus to make possible a change from controlled to aided status in the belief that very few schools would in the event so change their status, but that where such a change was exceptionally desired by those mainly concerned, it would be beneficial to schools and parents to allow it to happen.

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CHAPTER 12: CONCLUSION

117. The Government believes that the proposals in this Green Paper will do much to raise standards in our maintained schools. It will be necessary to bring to bear on the details of the proposals the knowledge and experience of all those concerned within and outside the education system so that the nation may reap the full potential benefit of the changes envisaged in a complex area of law and practice. The Government would welcome comments on every aspect of the proposals.

118. When the Government has considered these comments, it intends to proceed to legislation. Subject to the availability of Parliamentary time, this should be in the 1985-86 session, with a view to implementation beginning in September 1987.

119. Comments on the proposals from England should be addressed to Schools Branch 1 (Room 3/54), Department of Education and Science, Elizabeth House, York Road, London SE1 7PH, and from Wales to Schools Branch 1, Welsh Office, Cathays Park, Cardiff, CF1 3NQ. These should arrive not later than 1 October 1984.

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