



CCPD

DEPARTMENT OF EDUCATION AND SCIENCE

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FROM THE SECRETARY OF STATE

Lord Flowers FRS
Chairman
Committee of Vice-Chancellors
and Principals of the
Universities of the United Kingdom
29 Tavistock Square
London WC1H 9EZ

9 May 1984

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Dear Brian,

TENURE

You are aware of my concern about academic tenure, which we have discussed on a number of occasions. It is now over two years since your Committee proposed for the consideration of universities that the contracts of newly appointed academics should provide for dismissal for reasons of redundancy or financial exigency. With one or two limited exceptions there has been no response and, although I appreciate that universities have had other preoccupations, I think it now probably has to be recognised that the problem is not one that they can resolve by themselves.

I continue to believe that tenure in the strongest form in which it is enjoyed in some universities cannot be justified by reference either to the need to protect academic freedom or to the case for reasonable security and continuity of employment for academics, both of which I accept. Neither requires that academics should be guaranteed continued employment until retiring age no matter how the circumstances of their university change.

I therefore propose that tenure should in future be limited. The Government is prepared to introduce legislation if this cannot be achieved voluntarily. I should say at once however that we have in mind no interference with existing contractual rights. We wish only to limit the tenure that may be granted by contracts made after some specified future date.

The Government's objective is to ensure that all universities have, in respect of all academics whose contracts are entered into after the specified date, the right - subject to appropriate procedures to protect academic freedom, to which I refer below - to terminate their appointments for redundancy and reasons of financial exigency, and to ensure that universities cannot waive that right by the terms of the contracts they grant.

Before developing my proposals any further there are a number of matters on which I should welcome your views:

- (a) I believe that many universities will be glad to have this matter resolved for them, especially as there is no threat of retrospective action. Given the Government's clear intention and its willingness to legislate, is there any prospect that universities will act themselves to comply with the Government's wishes, given a period of time in which to do so, and a clear indication of what changes would be acceptable; or would they prefer to have legislation? I am sceptical that legislation can be avoided, because it would take only one dissentient to make it necessary.
- (b) As to the nature of legislation, I have noted your distaste for the idea of the development of a body of general law for the universities and the danger of moving inadvertently in this direction. I would therefore propose to follow precedent and proceed by way of legislation to establish and empower Commissioners (of which there would no doubt need to be more than one set for universities or groups of universities in different circumstances) to make the necessary changes to statutes. The general approach would be that once the job was done the Act would disappear from the Statute Book while the amended statutes for each university would continue in force, with subsequent amendment possible only with external approval - usually from the Privy Council - as at present. Can I assume that this approach to legislation would be more acceptable to you and your colleagues than cruder but brisker provisions that would have to remain upon the Statute Book?
- (c) I do not wish the changes I propose to create any threat to academic freedom. I should be glad to know your views on, and to discuss with you, the procedures necessary to achieve this and to safeguard against abuse.
- (d) In 1982 your Committee proposed that, where existing definitions of "good cause" did not provide for it, universities should be able to terminate tenured appointments for failure satisfactorily to perform the duties of the post. To what extent do universities already have this power and to what extent do those that have it use it? Should any legislation on tenure seek to make such a provision common to all universities for future appointments? If so, how would it be possible to ensure that such provisions contained adequate safeguards to protect academic freedom without rendering them unworkable?
- (e) Even with action on tenure I believe it is necessary to improve and extend the probationary arrangements for new appointments, although not necessarily in the way set out in your Committee's 1982 proposals. I should be glad to know your views.
- (f) There may be other ways in which statutes could usefully be clarified but in general I want to ensure that in all respects except tenure (and perhaps probation) each university's terms of employment will remain for them to determine.

When I have your views on these matters I shall report further to my colleagues before deciding how to proceed. I shall of course ensure that you are kept informed of our intentions and consulted at every stage in the preparation of any legislation.

I am anxious to be able to resolve the uncertainty about the Government's intentions as soon as possible and I look forward to hearing from you. Peter Brooke and I are of course ready to discuss these proposals if that would be helpful.

I am sending a copy of this letter to the Chairman of the UGC and to the ^{General} Secretary ~~General~~ of the AUT, and am arranging for it to be released to the House of Commons and the Press.

Your own

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