



CONFIDENTIAL

PRIME MINISTER

Teachers

Minutes dated 26 April from the Secretary of State for Education and Science, dated 29 April from the Secretary of State for Scotland, and dated 19 April from the Secretary of State for Employment.

BACKGROUND

You chaired a meeting on 2 April which concluded that the Government should stand firm in the current teachers' pay dispute. It was accepted, however, that in the longer term the Government would have to recognise teachers' dissatisfaction with their pay and status, on the basis that improvements could only come about through discussions in which pay, performance and conditions of service were closely linked. The Education Ministers, in conjunction with the Chancellor of the Exchequer and the Secretary of State for the Environment, were invited to explore the scope for defining in regulations both the assessment procedures which would be essential to an improvement in teachers' performance and a model contract specifying the extent of teachers' duties outside the classroom. The minutes from the Secretaries of State for Education and Science and for Scotland cover this ground.

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2. The Cabinet at its meeting on 7 March invited the Secretary of State for Employment, in consultation with the Law Officers, to review the scope for effective Government action to counter selective strikes, and to consider the possible need for further changes in trade union law.

... (CC(85)8th Meeting, Minute 4). His minute covers this ground.

Flag C



CONFIDENTIAL

MAIN ISSUES

3. You will wish to review:

- (i) the state of play in the current disputes, and its possible links with pay developments elsewhere in the public services sector;
- (ii) the Government's longer-term priorities, and how they should be pursued;
- (iii) the possible need for legislation on selective action.

The Current Dispute

4. In England and Wales, an initiative for informal talks from the Association of Metropolitan Authority (AMA) representatives on Burnham has floundered as the unions and the employers have been unable to agree terms. The National Union of Teachers (NUT) offered to enter talks, but only if there was no discussion of restructuring or the terms for a new contract. The employers are insisting that only agreement on restructuring could produce a significant increase in the 4 per cent pay offer (against a claim worth 12½ per cent). The AMA has therefore requisitioned a full meeting of Burnham for May 13. Selective industrial action is continuing, with 636 schools selected this week by the NUT. One quarter (26) of the Local Education Authorities (LEAs) (including two Conservative authorities have, however, issued statements supporting the teachers' demands, and have been exempted from action. The National Association of Schoolmasters/Union of Women Teachers (NAS/UWT) is continuing a campaign of lightning strikes. They have called for talks on pay structure once the current round is over, but were overruled in Burnham by the larger NUT. All major teaching unions (ie. including the Assistant Masters and Mistresses Associations (AMMA)) have adopted national policies of withdrawing the 'goodwill' associated with the performance of 'voluntary' duties.



CONFIDENTIAL

5. In Scotland, there was wide support for a one-day general teachers' strike on 24 April in support of the claim for an independent pay review. Selective action is now continuing in primary schools only: secondary schools have been exempted because public examinations have started. The teachers are refusing to take part in work to develop the curriculum, or to supervise public examinations.

6. The Secretary of State for Education and Science sees no prospect of an early end to the disruption. He continues to advocate that the Government should stand firm in the belief that sooner or later the English and Welsh teachers will accept arbitration and the Scots will then come into line. You will wish to consider whether anything further can be done to bring home the unreasonableness of the teachers position, and in particular of their narrow interpretation of their contractual responsibilities. Once the local authority elections are over the pressure on LEAs to declare support for the teachers' case will be lessened, though strike action will be concentrated on those which continue to urge a firm stance.

7. The Government's initial strategy for this year's teachers' pay negotiations was to offer the prospect of some - unspecified - additional money through pay restructuring, in return for acceptance of the principle of teacher appraisal and the creation of a system in which better rewards depend on better performance. The teachers unions have frustrated this in both England and Wales and Scotland, in England and Wales by insisting that negotiations should be restricted to pay, with no link with conditions of services, and in Scotland by their rigid insistence on an independent pay review. The Education Ministers have now, in effect, given up on this approach for the current round, and are relying on eventual acceptance of arbitration in England and Wales to settle the pay issue this year; as soon as the issue is settled, they want to move ahead in the pursuit of the longer-term objectives,



CONFIDENTIAL

with additional resources in 1986/87 tied to progress with these objectives. It may be that there is now no real alternative to this course of action, but there are increasing risks attached to it. Last year arbitration gave the teachers very little more than they would have secured in negotiation; but this year the background will be some distinct - if temporary - increase in the rate of inflation, and also a significant trend towards higher pay settlements in the private and public trading sectors. The longer arbitration is delayed, the greater the risk that it might result in an award substantially higher than the 4 per cent now on offer, so raising the baseline above which additional resources would have to be offered in pursuit of the longer term objectives. There is also the further risk that Review Bodies covering other public service groups - particularly that covering nurses and the professions allied to medicine, which is engaged on a 'first principles' review of appropriate pay structures and pay levels - might recommend some general overall pay improvement which the teachers' arbitration machinery could not ignore. In that event the teachers might succeed in securing some at least of the benefits of restructuring without making any concessions on appraisal or conditions of service.

Longer term priorities

8. The Education and Scottish Secretaries' minutes show a clear difference of view on priorities. The Education Secretary's priority is to negotiate (and only in the last resort seek to impose through legislation) improvements in the management of the teaching force, with new arrangements for appraisal and in-service training leading to higher rewards tied to better performance. He doubts the advantage of imposing tighter service contracts through legislation on the ground that LEAs would be generally unwilling to enforce such contracts. The Scottish Secretary, by contrast, attaches most weight to the needs to reestablish teacher cooperation with curriculum reforms and to restrict teachers' scope for disrupting schools.



CONFIDENTIAL

He therefore favours better incentives for the generality of teachers, with a view to securing 'acceptance of some form of formalised description of the professional duties of a teacher'. He does not see an early direct link between appraisal and pay as a priority in Scotland. So far as legislation is concerned, Mr Younger contemplates changes to the Education (Scotland) Act 1980 to remove an impediment to the dismissal of a teacher and to strengthen his powers to require LEAs to comply with their statutory duties to provide adequate and efficient school education.

9. This difference over priorities reflects different judgments by the two Ministers about what is practicable and negotiable. Sir Keith Joseph thinks it impossible to negotiate a package on teacher appraisal and contracts at an acceptable price - even 15 per cent would not do the trick. So he proposes challenging individual LEA employers to enforce existing contracts through the courts, and encouraging them to make new appointments on stricter contractual terms (although he doubts their willingness to do this). Better management should be introduced by the stick of imposing appraisal and the carrot of some restructuring of pay scales, providing new promotion opportunities to be filled by the effective operation of the appraisal procedures. He does not contemplate intensified action by his Department in enforcing LEAs' performance of their statutory duties. Mr Younger, however, contemplates a general pay increase in effect buying teachers' acquiescence in more tightly specified contracts, and apparently envisages taking new powers he could use to restrict the scope for collusion between LEAs and teacher unions in the organisation of disruption in schools.

10. There must be some doubt whether the two education systems could in practice move in such divergent ways. A general pay increase in Scotland sufficient to buy industrial peace and cooperation could prove a very awkward precedent in England and



CONFIDENTIAL

Wales, as could the creation in England and Wales of substantial new promotion opportunities prove in Scotland. Before any discussions get under way, following a settlement of this year's immediate pay issue, of possible additional resources in return for progress towards longer term objectives, some clearer understanding is likely to be required between the two Ministers on the balance between general pay improvements and selective promotion opportunities, and the realistic scope for a divergent approach. Similarly some clearer understanding is likely to be needed on the scope for the more active supervision of LEAs; the smaller scale of the Scottish system may help to facilitate such supervision - but it would be as well to establish what Mr Younger has in mind, and what its implication would be for public expenditure and local government finance. (Other Ministers saw considerable difficulty in his proposal earlier this year that special arrangements should be made for the tuition of public examination candidates whose school education was being disrupted by industrial action.) Finally the question needs to be asked why a tighter contract is thought feasible in Scotland but not in England and Wales.

11. There remain the problems about public expenditure and local authority finance. The Chancellor of the Exchequer (in his minute of 1 April) has resisted any commitment to additional resources for teachers who ought to be doing the job, and improving their performance, without extra money. He feared the possible repercussions on other public service pay negotiations, and in the Government's attempt to exert effective downward pressure on local authorities' expenditure, and doubted whether the proposed extra money would make any significant contribution to the achievement of the Government's education objectives. The Environment Secretary (in his minute of 29 March) pointed to the difficulty extra education spending decided later this year would pose for the 1986/87 rate support grant settlement (RSG), which would be made worse if local

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A further minute from the Chancellor is at Flag E.

Flag F



CONFIDENTIAL

local authority expenditure targets were maintained. And apart from the problems associated with the RSG timetable, there would be the further difficulty of allocating the money among LEAs in a publicly defensible way. These difficulties are acknowledged in the final paragraph of the Education Secretary's minute, but further detailed work will be needed if Ministers decide to go ahead with his proposals.

Selective Action

12. This part of the discussion is essentially separate from the question of how to handle the teachers' pay disputes. The Secretary of State for Employment's minute and attached paper review the scope for action to counter selective strikes. Such action can take two main forms:

- (i) a strike by a group of 'key workers';
- (ii) rotating industrial action.

The action by the NUT and in Scotland is of the second type. (Dealing with the withdrawal of goodwill is a matter of interpreting and enforcing the existing actual or implied contract and falls outside the scope of the Secretary of State's minute.)

13. There is no existing sanction against selective action beyond the withholding of salary from the employees involved. This can be made good to those involved at relatively low cost to the unions and the rest of their members. The Secretary of State identifies three main legislative approaches which might provide more effective sanctions. These are:

- (i) to withdraw immunity from selective actions;
- (ii) the withdraw immunity from all industrial action in certain employments where selective action is prevalent;



CONFIDENTIAL

(iii) to provide employers with the right to lay off other employees whose work is affected by others taking selective action.

Only the first two are relevant to the type of action being undertaken by teachers; the third could be relevant in situations where, for example, a strike by a small number of computer staff results in a large number of people having no work to do.

14. The Secretary of State for Employment sees substantial difficulties in both the first two courses. The first would only be effective if 'selective action', as opposed to a series of genuine local grievances, could be satisfactorily defined in legislation and proved in the courts; this seems unlikely. In the case of teachers, who are employed by individual LEAs, they could no doubt adduce many reasons for undertaking a series of local strikes. And it would not help the Government if teachers accepted the challenge and shut all the schools instead of only a few of them.

15. The second option is to remove the right to strike entirely in certain industries. This would be a major, and controversial, step. It could not be taken for professions such as teachers alone: it would have to apply to many other workers in the public sector. If the right to take industrial action were to be abolished, other ways would have to be provided for resolving disputes (eg. unilateral access to binding arbitration) which would not be without disadvantages. Mr King also discusses the possibility of giving aggrieved 'customers' the right to pursue court actions against unions who prevent employers from discharging statutory duties. The creation of new enforceable rights to receive public services would be a major step. The definition of the rights to be covered would require careful consideration, and it would be difficult to avoid giving 'customers' the right to sue incompetent public authorities as well as trade unions in the event of failure to deliver. Mr King thus comes down in favour of



CONFIDENTIAL

relying on more effective use of the existing sanctions, which, in the teachers' case, would require more determined enforcement of existing contracts by LEAs.

HANDLING

16. You will wish to ask the Secretary of State for Education and Science and the Secretary of State for Scotland to make the cases for their recommendations. The Chancellor of the Exchequer and the Secretary of State for the Environment will have views on the expenditure and the RSG implications of any initiatives. All the Ministers concerned will need to contribute to the discussion of how to handle the teachers' pay situation. The Secretary of State for Employment will wish to speak to his note on selective action, and the Attorney General will wish to advise both on this and on the enforcement of teachers' contracts.

CONCLUSIONS

17. You will wish to reach decisions on whether:

(i) the Government should continue to stand firm in the current pay negotiations:

(ii) any further steps can be taken to bring home the unreasonableness of the teachers' position and to ensure that Local Education Authorities take a firm line on enforcing teachers' contracts;

(iii) initiatives should be undertaken on pay restructuring and teacher assessment, on the lines proposed by the Secretary of State for Education and Science, and on the definition of teachers' duties, as suggested by the Secretary of State for Scotland, and if so the timing and amount of any inducements the Government might offer in return;



CONFIDENTIAL

(iv) legislation should be introduced to require teacher assessment, either as an initiative in its own right or to underpin an agreed settlement;

(v) Scottish legislation should be introduced to facilitate the dismissal of teachers, and to provide for Government intervention where LEAs are in default of statutory duties;

(vi) the Government should seek to introduce a new and more precise contract of employment for teachers; and

(vii) further work should be done on any options for countering selective action.

JW

A J WIGGINS
Cabinet Office
30 April 1985

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