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PRIME MINISTER

TEACHERS' PAY NEGOTIATIONS, ENGLAND AND WALES

1. You have arranged a meeting for 1 August to review teachers' pay issues. This minute sets out the main features of the current position in England and Wales.

2. The May county council elections have already led to important changes in the conduct of teachers' pay negotiations. In particular my representatives no longer have a weighted vote or a veto within the Management Panels of the Burnham Committees. The local authority associations are pressing for repeal of the Remuneration of Teachers Act 1965 (RTA), and the establishment of voluntary collective bargaining across pay and other conditions of service. I attach a note (Annex A) which briefly reviews the position and the options. I propose to consider these options further, and to present my conclusions to colleagues in due course.

3. In the meantime I invite agreement with my view that, given the current constraints imposed by RSG mechanisms on local authorities' ability to pay, it would be wrong to take precipitate action in response to the loss of the weighted vote and the veto. An immediate attempt to re-establish the veto or some equivalent, either by legislation or by using my power to reconstitute the Burnham Management Panels, would be extremely contentious and would not provide a means of solving the current dispute. Yet we should not at this stage wholly write off the possibility that, if the local authorities were to follow their withdrawal from the concordat by serious irresponsibility in pay negotiations, we should need to strengthen our powers. On the other hand, we may in due course judge repeal of the RTA, and the establishment of new negotiating arrangements across pay and other conditions of service in its place, broadly along the lines proposed by the local authority associations, to be justified. But that, too, will be contentious, and in any case could not solve the current dispute.

4. With regard to the current year's pay negotiations the position is this. The now Labour controlled management panels have:

- (i) offered the FE teachers 5% from 1 April 1985 plus 2% from 1 December subject to the submission by that date of a joint report to the Burnham FE Committee and the relevant conditions of service committee on reform of the salary structure and other conditions of employment. The FE teachers' negotiators have provisionally accepted this offer, but have referred it to the membership. We expect to know in September whether the offer is finally accepted. There is no question of our providing extra resources. Both the Department and the Audit Commission have identified scope for savings through greater efficiency. I have told the employers that we shall not make any extra resources available in either 1985-86 or 1986-87 to help finance a settlement for FE teachers; moreover the savings should also provide for some extra students and some relief to the taxpayer;
- (ii) provisionally offered the school teachers 5% or £480 (whichever is greater) from 1 April and a further 1% from 1 November. The teachers have rejected this offer. (I attach at Annex B a note which covers the impression given by some press reports that higher offers than this have been made.)

5. The Teachers' Panel met again on 23 July and with only the NUT majority votes in favour confirmed their current position as a demand for a 1985 settlement costing at least 6.9% in 1985-86 but end-loaded to provide more than 7.5% as a base-line for 1986-87 together with a management commitment to a staged return to Houghton relativities. At present they say they only want a further Burnham meeting if management undertake to improve significantly on the last offer. It is doubtful whether the employers will agree to this because of our constraints on their resources through RSG. Further and more serious disruption of the schools from the beginning of next term must therefore be expected.

6. My 21 May letter (Annex C) made it very clear that we would not make any extra resources available in 1985-86 to help finance a settlement for the school teachers, and that extra resources for 1986-87 would depend on progress towards the Government's objectives. We have to decide whether to stand on our present position and do no more, or whether to stand firm on our present position and move towards quantifying our May offer (which we have so far avoided) at a higher level than we had then in mind. I believe these are the only real alternatives. The latter would enable me immediately to bring further pressure to bear on the authorities and the teachers.

7. We have to recognise that while public opinion (Gallup) continues to oppose the teachers' disruptive action (63% in June, 65% in May) a majority considers they should get the pay rise they are seeking (57% in June, 52% in May). Those figures were collected well before the TSRB decisions were announced.

8. We also have to recognise the damage being done now to our education policies through disruption in the schools, and to the longer term prospects for staffing the schools satisfactorily.

(i) A year or two ago the flow of recruits into initial teacher training and from training into the schools was relatively good in numbers and quality, even in mathematics and science, but there has now been a sharp downturn. Applications for secondary teacher training overall are down by 18% (in mathematics and physics the percentages are 25% and 32%), and applications for primary teacher training, where we need expansion and are offering more places, are effectively unchanged. This trend could put at risk the switch to science and technology in higher education.

(ii) The Joint Mathematical Council and the Association for Science Education report increasing numbers of able mathematicians and physical science teachers leaving the profession. A recent Rank Xerox advertisement for salesmen attracted 1500 teacher applicants. Increasingly,

employers warn of difficulty in making satisfactory appointments. Cambridgeshire, for example, has 16 secondary schools without a graduate physicist between them, and describes the quality of applicants as "abysmal". Other authorities speak in similar terms.

(iii) Many teachers continue to give excellent and devoted service. In particular many headteachers accept heavy burdens to keep schools working as normally as possible. It is right that we should recognise this, publicly as well as privately, but it must not blind us to the fact that very large numbers of teachers, including many in good and highly esteemed schools, are bitter because they believe their pay and prospects have been unjustly depressed. Views may vary about that, but there can be no doubt that falling rolls have reduced promotion prospects, that many good teachers are not paid enough to keep them in the schools (see (ii)), and that teachers in general are not adequately motivated to undertake the work needed to make our Better Schools policies a reality.

(iv) We must remember also that demographic trends mean that over the next few years we shall need to recruit into teaching an increasing proportion of school and college leavers qualified for higher education. On current projections, some 10% of the 1985 leavers will need to be recruited; by 1990 the proportion will be nearer 15%, and it is likely that by the mid-1990s the figure will be nearly 20%.

Options for current negotiations

Stand firm, on the 21 May letter within the resource limits we then privately agreed. £100 million - 1986-87

9. Under this option I would continue to argue for a new agreed definition of teachers' responsibilities, excluding mid-day supervision, and a pay structure providing extra pay in total mainly to allow for more promotions of teachers as in my 21 May letter, without

giving any indication of the scale of the extra resources we might be willing to make available. All the signs are that whatever I may say the local authorities and the teachers will be unwilling to negotiate across the two years on this basis. This is at least partly because of press speculation that around £100 million might be available, a figure they regard as unrealistically low for any negotiated structural change. Judging by this year's negotiations so far their outcome is likely to be an end-loaded settlement for 1985-86 alone which will not incorporate progress towards our objectives (and would not therefore justify our releasing any extra resources), will push up rates in 1986, and be damaging to other items in local authority expenditure this year and much more damaging next year. Further disruption of the schools next year may well follow.

Stand firm on the 21 May letter but provide extra resources.

10. This would enable me to press negotiations more positively down the road indicated in my 21 May letter. To attempt this, and still fail both to make progress towards our objectives and achieve a settlement would be very damaging to the Government's credibility. I do not believe it would be worth risking this alternative unless I could eventually (not at the outset, although even at that stage I should have to indicate to the employers the order of magnitude in mind) offer at least £200 million for local authority expenditure in 1986-87 and consequential phasing to about £500 million over a three year period (as envisaged in my 16 May minute) in addition to the cost of mid-day supervision. While I cannot guarantee the outcome, I judge that such a level of resources would enable me to achieve worthwhile progress towards our objectives with a good chance of peace in the schools for the next three years.

11. As our recent discussions in E(LA) make clear, it would be unrealistic to look for compensating savings in local authority expenditure in 1986-87. In the longer term legislation to require competitive tendering for school meals and to limit discretion to provide free or subsidised school meals could ensure delivery of some of the savings we are already seeking, and new arrangements

for local authority finance including new specific grant powers could deliver better value for money on teachers' pay. Firmer control of local authority spending will nevertheless depend on such measures as rate-capping and ending local authority power to fix non-domestic rates. These are necessarily matters to be pursued separately.

Conclusions

12. Our aim must be an end to disruption in the schools, and the implementation of our educational policies, at a cost we can afford. Some degree of co-operation from the teachers is essential for this. Even if the local authorities agreed with our view of the maximum they should offer, and were willing to suspend without pay teachers who refused to work normally, this could not be expected to yield the necessary co-operation from the teachers even if - and this must be doubtful - it brought the current disruption to an end.

13. No attempt to restore the Burnham veto, or any emergency or temporary legislative expedient to impose a pay structure and conditions of employment from April 1986, could achieve our aim. Public opinion, the local authorities and the teachers would be against us. In principle such options could prevent excessive pay settlements, but they could not force acceptance of pay offers we might be prepared to make or achieve harmony in the schools, let alone the good quality recruits, the retention of good teachers and the motivation we need if we are really to raise standards.

14. Standing firm on our present position in relation to the current negotiations will not yield an acceptable outcome (I am, of course, standing firm at present). The cost of making progress towards our objectives will be at least £200 million in 1986-87, rising to £500 million in 1988-89, as an addition to local authority expenditure on school teachers' pay.

15. I conclude that:

- (i) for the present we should let matters rest so far as the operation of the RTA is concerned; and not immediately

seek to repeal or amend the RTA; but keep all options open (including (v) below, because we may judge this desirable in due course);

(ii) we should accept that the main constraint on the Management Panels for the present will be the ability of authorities to pay, as constrained by RSG settlements;

(iii) we should continue to impress upon the local authorities, the teachers, and public opinion that the only basis on which we will augment the resources available to local authorities for teachers' pay is progress towards our objectives for teachers' pay and conditions of service as set out in my 21 May letter to the local authority leaders (copy attached);

(iv) we should decide now in favour of adding £200 million to local authority expenditure provision for teachers' pay in 1986-87, rising to £500 million in 1988-89, and the cost of mid-day supervision which I estimated in May as £35 million, subject to our making sufficient progress towards our objectives by October. I would then initiate negotiations immediately, indicating the order of magnitude we have in mind to the local authority associations;

(v) only if the local authorities act within the Burnham Committees in a way which public opinion will regard as irresponsible should we consider restoring the influence the concordat provided over teachers' pay negotiations.

16. I am sending copies of this minute to the Lord President, the Chancellor of the Exchequer, the Secretaries of State for Scotland, Wales, the Environment, Employment and Northern Ireland, the Chief Secretary and Sir Robert Armstrong.

KJ.

K J

29 July 1985

CONFIDENTIAL

TEACHERS' PAY NEGOTIATIONS, ENGLAND AND WALES

Note on the Remuneration of Teachers Act

1. The Remuneration of Teachers Act 1965 (RTA) requires the Secretary of State for Education and Science to establish (Burnham) Committee(s) representative of teachers and local education authorities (and the Secretary of State) to review the remuneration of teachers and to make recommendations to the Secretary of State. The Secretary of State is then required to promulgate scales and other provisions to give effect to those recommendations. The Secretary of State has no power to vary the recommendations. The Secretary of State is also required to make arrangements for referring to arbitration matters on which such a committee has failed to reach agreement. (The current arrangements, made in 1980, provide for a reference to arbitration only if both Management and Teachers Panels agree.) An arbitration award has to be implemented unless each House of Parliament resolves that national economic circumstances require that effect should not be given to the award: in such a situation it would fall to the Secretary of State to determine an award.

2. The RTA does not prescribe rules of procedure for the Burnham Committee(s). Within the "Management Panels", comprising the Secretary of State's representatives and the local authority representatives, a voluntary "concordat" has operated from 1965 to July 1985 under which it was agreed that no pay offer to which the Secretary of State objected on grounds of total cost would be made (the "veto"), and that on all other issues the Secretary of State's representatives would have a weighted vote (the current structure of the Primary and Secondary Committee Management Panel is ACC 13, AMA 10, WJEC 2, Secretary of State 2 (weighted vote 15)).

3. When the RTA and the concordat were brought into being increases in teachers' pay automatically resulted in increases in Government grants to local education authorities. This was seen as justifying the veto. More recently, with cash limits applying to RSG and the introduction of RSG mechanisms to constrain local authority expenditure, the veto has been challenged as inappropriate. The local authority negotiators believe that the Government has used the threat of the veto in such a way as to deny them the negotiating flexibility needed to achieve settlements. Hence they argue the repeated references to arbitration.

4. The Burnham Committees are required to make recommendations about pay. Other conditions of service are negotiated between employers and employees in other, non-statutory committees. The Secretary of State has no representation in the school teacher committee, and observer status on the further education committee. The RTA does not prevent pay negotiations being linked to other conditions of service if the local authorities and teachers are willing. The Teachers Panel, however, principally reflecting NUT views, strongly resists engaging in negotiations covering pay and other conditions of service.

5. Recently, due particularly to disruption of school programmes by teachers refusing to undertake normal parts of their work as a means of pursuing pay claims, the local authorities have been particularly anxious to relate pay negotiations to conditions of service, and to obtain a tighter definition of teachers' duties which they believe would make it more difficult for teachers to disrupt schools at little or no cost to themselves. The Government wishes to promote improvements in the quality of teachers and in management by local authorities, and to see a pay structure which supports this policy. In particular the pay structure should be used to attract, retain and motivate good teachers and teachers with skills that are in short supply. Hence the 21 May letter (Annex C) to the local authority leaders offering additional resources for teachers' pay in 1986-87 provided Ministers could be assured of satisfactory progress towards a clearer definition of teachers' duties and an improved pay structure.

6. Following the May county council elections Labour has become the largest party grouping within the ACC as well as the majority party within the AMA. Effectively Labour now control the two Burnham Management Panels. Both the ACC and the AMA have (i) formally withdrawn from the concordat and (ii) asked the Government to repeal the RTA and to facilitate the establishment of voluntary collective bargaining across pay and other conditions of service for teachers in maintained schools and colleges. They sent notice of withdrawal late on 4 July, and from 5 July have declined to accept the weighted vote or the veto. The Secretary of State has for the present accepted this, but has reserved his position for the future. Ministers have to decide whether to let matters rest, to take such action as is open to the Secretary of State under the RTA to re-establish the degree of control over teachers' pay previously provided by the concordat, or to amend or repeal the RTA along the lines suggested by the local authority associations or in some other way.

Options

A. Let matters rest

7. Under this option the Secretary of State would be able to make the Government's views known within the Management Panels, but would have little voting power over any of the issues such as total cost of settlements, pay structure, relation between pay and other conditions of service. Government influence over total cost would rest mainly with rate support grant mechanisms, as it does with other groups of local authority employees and with teachers in Scotland. Government decisions on provision for expenditure by local authorities, the Secretary of State's power to make regulations with respect to the teaching staff to be provided in maintained schools and colleges, and the new powers the Government proposes to take in respect of the appraisal of teacher performance and grants for in-service training would give the Secretary of State influence over various aspects of teacher employment. In the longer term Government decisions on future arrangements for financing local authorities, including the possibility of further specific grant powers, will be relevant.

B. Use powers under RTA

8. The one relevant power is that of determining what bodies shall be represented on the Committees and by what numbers of representatives (the Secretary of State currently has the teacher membership of the Primary and Secondary Committee under review). The Secretary of State's use of this power could no doubt be challenged in the courts on such grounds as unreasonableness, natural justice, or legitimate expectation. If it resulted in any body at present represented on a Committee ceasing to be represented, it would also be subject to negative resolution in either House of Parliament. Nevertheless, in principle the Secretary of State could at any time reconstitute either of the existing Committees. For example, he could determine that the Management Panel of the Primary and Secondary Committee (see paragraph 2 above) should become ACC 2, AMA 2, WJEC 1, Secretary of State 6.

9. Changing the membership of a Management Panel without taking a majority would serve no useful purpose. Both local authority associations oppose anything more than the present scale of Government representation, and would tend to unite against the Secretary of State. But a decision to take control, by whatever means, would be extremely contentious and dangerous. Even if the legal hurdles were overcome the local authorities would probably refuse to attend, and in some circumstances might well give public support to the teachers. The Secretary of State would have to accept full responsibility for pay offers to people he does not employ. While he could determine pay offers he could not force a settlement. No pay offer the Secretary of State would wish to make in the foreseeable future could in these circumstances be expected to bring about an end to disruption in the schools and the co-operation of teachers with the Government's educational policies.

C. Amend or repeal the RTA

10. The Secretary of State proposed to amend the RTA in 1980-81, in response to pressure from the local authority associations. Pressures of Parliamentary time, and differences of opinion

among local authorities and teachers about the form new negotiating machinery should take, led to deferral. There are obvious problems about imposing unwelcome negotiating machinery by statute on unwilling participants. Any new machinery broadly acceptable to the local authorities and the teachers would almost certainly have to be close to free collective bargaining, and would quite certainly not restore the power the concordat gave the Government. Nevertheless, the repeal version of this option, which could by agreement be accompanied by some initial safeguards (covering the position of the headteachers and the Professional Association of Teachers, for example) could be better in the longer term than letting matters rest as they are. It could, for example, enable the authorities to press the teachers to negotiate pay and other conditions of service together, and it would free settlements from statutory promulgation by the Secretary of State.

11. Alternatively, the Government could seek to amend the RTA so as to restore the broad effect of the concordat. This might be achieved by providing that the recommendations of the Committees shall be promulgated by the Secretary of State "if he accepts them"; and that if not he shall substitute his own determination subject, perhaps, to the approval of Parliament. In theory this would give the Secretary of State more power than the concordat; he could determine the pay structure as well as limit the total cost. A more limited amendment would require him to implement recommendations unless each House of Parliament resolves that national economic circumstances require that effect should not be given. In practice, however, the former type of amendment would run into the same problem as taking a majority on the Management Panel; it could not be expected to bring an end to disruption or to achieve co-operation with our educational policies. The latter amendment would probably be used as rarely as the present power to override arbitral awards; and if it were used it would again not end disruption nor bring co-operation.

ANNEX B

CURRENT NEGOTIATING POSITION IN BURNHAM P&S COMMITTEE

1. Formal offers of 5%, arbitration, and conciliation have all been rejected.

2. A formal indication has been put on the Burnham record of the sort of offer which the employers would make if the teachers' side were willing to show "flexibility" in negotiation (ie shift from the position at 4 below);

- . 5% or £480 (whichever is the smaller) from 1 April 1985
- . merger of scales 1 and 2
- . 1% from 1 November 1985 subject to agreement in principle on a package of reforms covering pay and conditions.

This would cost 5.85% in 1985/86 and put 6.43% on the baseline for 1986/87.

3. Other end-loaded "offers" have emerged in the press - these suggest an extra and unconditional 2% from 1 December 1985 and, although it is impossible to make the arithmetic match the reports, these would, it has been speculated, add 6.06% or 6.24% to the 1985/86 pay bill and put "over 7%" on the 1986/87 baseline. It is possible that the acting leader of the Management Panel discussed possibilities of this kind with the teachers' leaders on the fringe of the 16 July Burnham meeting, but (a) no discussion of these possibilities has taken place within the Management Panel, (b) no formal offer at this level has been made, and (c) no report of any discussion of these figures has been made to the Management Panel.

4. The teachers' side has rejected all these "offers" and has said it will only meet management again on the basis of a significantly improved offer which would give them at least 6.9% in 1985/86, more than 7.5% on the 1986/87 baseline, and a commitment to further moves towards the restoration of 1974 relativities.

5. There are no plans for further meetings of the Burnham Committee.



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FROM THE SECRETARY OF STATE

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21 May 1985

Jan Philip

Throughout the current round of negotiations in the Burnham Primary and Secondary Committee, and the associated salary structure talks, I have tried to ensure that the Government's position is understood by those concerned, particularly in relation to the possibility that some additional resources might in the Government's view be justified. I think it right to make the Government's present position clear in advance of the meeting of the Burnham Primary and Secondary Committee fixed for 23 May, in relation to both 1985-86 and 1986-87.

In the light of the position reached in this year's negotiations, the Government is not able to make any additional resources available for teachers' pay in 1985-86. The cost in 1985-86 of any settlement must therefore be within what local authorities can already afford to pay, however the settlement is reached.

There has been debate about what should be regarded as the extent of teachers' contractual responsibilities. The Government believes it would be helpful if there were a generally accepted view on this matter, and if the range of teachers' duties was clearly linked with their contracts of employment. I enclose a note setting out the Government's provisional view on these duties. The Government would welcome views on these as a step towards agreement being reached as part of the basis for negotiations about teachers' pay for 1986-87. In the Government's view that agreement could exclude mid-day supervision from the range of teachers' duties from 1986-87. The Government would then provide in the 1986-87 Rate Support Grant settlement some additional resources for mid-day supervision costs.

For 1986-87 the Government would be willing to provide some additional resources for teachers' pay in the Rate Support Grant settlement, if and only if an acceptable and firm agreement in principle can

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be reached by October 1985, which would ensure progress towards the Government's objectives. The Government envisages an agreement which would require employers to promote more teachers than under the existing system to the higher salary scales, exercising their discretion in doing so in the light of the quality of teachers' work and the demand for their skills and qualifications elsewhere. The Government believes that increased promotion could benefit a large number of teachers directly over a period and change pay prospects for all teachers.

Because of the wide public interest in these matters, I am making the text of this letter publicly available. I shall of course be glad to have an opportunity of discussing its contents with you at a convenient time, and I shall also let the teacher unions know that I should be happy to discuss its content with them.

I am writing in similar terms to Nicky Harrison.

Kevin

Kevin

STATEMENT OF TEACHERS' DUTIES

Teachers must

Pupils

1. teach assigned timetabled classes
2. take an appropriate share of collective staff responsibility to cover the classes of absent colleagues
3. plan, prepare, evaluate and review personal teaching methods and programmes in accordance with education authority and school policies
4. take an appropriate share of collective staff responsibility to supervise pupils on arrival at and departure from school and during the school day [including the midday break?]
5. mark, record and report on pupils' work (including homework) and progress in accordance with education authority and school policies
6. provide guidance and counsel on educational, social and career matters in accordance with education authority and school pastoral and counselling policies

Parents

7. consult and liaise with parents, attending meetings arranged for the purpose

Curriculum & Examinations

8. take part in arrangements for presenting pupils in public examinations
9. contribute to the preparation and development of courses of study and teaching materials in response to change in public examinations and assessment procedures and in accordance with education authority and school curricular policies

Staff Matters

10. take part in performance appraisal in accordance with education authority arrangements
11. take part in courses of in-service training and other schemes of professional development
12. take an appropriate share of collective staff responsibility for the professional development of colleagues, including new entrants to teaching
13. attend staff meetings

General

14. carry out such other related duties and responsibilities at the school as may be reasonably allocated, as need arises, by the head.