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P 02311

PRIME MINISTER

Teachers Duties and Conditions of Service

MISC 122(86)17

DECISIONS

The Group must now reach decisions on the Government's strategy for settling the teachers' disputes in England and Wales and in Scotland. In particular, decisions are required on:

- i. the staging of a conditional offer;
- ii. the terms and conditions associated with that offer;
- iii. the extent to which Government should finance the offer;
- iv. the strategy for imposing a settlement if negotiations fail, including the question of early legislation.

2. In England and Wales, negotiations are due to resume at Nottingham on 8 November. Since the strong probability is that these will simply raise the bill, they must be pre-empted. It is also important that the consequences for public expenditure are known before the Autumn Statement is finalised. The option of taking the Autumn Statement at Cabinet on 6 November (a date not yet known to colleagues) must be kept open, and this strongly points to teachers' pay being considered by Cabinet on 30 October.

## BACKGROUND

3. At the last meeting on 20 October, the Group agreed that the Government should stick by the principle that no extra resources would be provided until the employers and unions had agreed on an improved pay structure and new terms and conditions of employment. They agreed that in Scotland the Main report provided a broadly acceptable package, provided the cost was spread over more than one year. In England and Wales, they recognised the ground would need to be carefully prepared before any solution could be imposed, and that it might well be appropriate as a first step to indicate to the employers and unions that the Government would be prepared to offer finance on the same scale as in Scotland provided that they first reached agreement in Burnham on pay and pay structure and in CLEA(ST) on duties and conditions of service broadly equivalent to those recommended by Main. The Education Secretary was invited to bring forward proposals. (MISC 122(86)-13th Meeting).

## THE ISSUES

A conditional offer

4. The Group has agreed that the opening gambit both north and south of the border might be a conditional offer, which would lead to a settlement negotiated through the existing machinery. The effect of this would be to bring the Government's immediate approach for England and Wales into line with that proposed by Mr Rifkind for Scotland. His proposal has always been to rely on SJNC to implement Main without delay. The key issue is the period over which the Government is prepared to see the Main pay increases implemented. The Education Secretary sets out a number of options (listed in paragraph 4 of his paper).

5. A fundamental issue for the Group to decide at the outset is whether to pitch their offer at a level which holds out a realistic prospect of a negotiated settlement. To achieve this the Education Ministers believe the offer must be more generous than that made by Sir Keith Joseph last year, and that Option B in the paper is the furthest it is safe to go in staging. The

alternative is to go for a less generous offer, with an increased risk of rejection by the unions. In this case, the conditional offer would be merely tactical, to prepare the ground in Parliament and with the public before stepping in with an imposed solution. The Chief Secretary favours Option F, which is the cheapest and the only one whose cost in 1987-88 is consistent with Sir Keith Joseph's original offer. There seems little doubt that this would be rejected. Other Ministers favour options between these extremes, and the Group must balance the advantages of a negotiated settlement against the higher cost and greater risk of repercussions elsewhere. The possibility of a further pay increase with effect from 1 October 1986 if agreement were reached on the Government's terms through negotiations, combined with the implicit - or explicit - threat that no money would accrue before 1 April 1987 if the Government had to impose a solution, could serve as a spur to successful negotiations, provided the Government offer a staging which teachers and the general public will regard as reasonable. Mr Baker, however, seems to contemplate a backdated increase for 1986-87, once legislation is in place.

6. As for terms and conditions, in Scotland the Main report provides a broadly acceptable package, and it would be unrealistic to expect to add any new requirements now. For England and Wales, the Education Secretary has prepared a package (at Annex A) which seeks to mix the best elements from Coventry and Main. This has the advantage that the unions have already agreed the Coventry components (although only in return for a substantially higher maximum to the Main professional scale than now contemplated), but lacks the advantage of endorsement of an independent committee.

#### Local authority contribution

7. The pay increase recommended by Main subsumed the normal 'cost of living' increase for April 1987. It is therefore reasonable that local authorities (LAs) should be expected to finance that proportion of the total increase from the provision already made available to them. The Group must decide how large that offset should be. There are two possibilities:

i. to assume the LAs will meet 5.75 percentage points of the 1987-88 increase above present salary levels from funds already available from the RSG settlement made in the summer, as assumed in the Treasury Forecasts;

ii. to make additional provision above the 3.75 per cent factor (ie the forecast of the GDP deflator) used in presenting the RSG settlement as broadly providing for unchanged expenditure levels in real terms.

This issue is, as Mr Baker notes, being pursued separately. The first approach risks disputes with LAs and giving the impression of endorsing 5.75 per cent pay increases for all LA employees. The second would involve additional provision (assuming full main rates are in payment in 1987-88) of £130 million. It should be possible to postpone a final decision on this for a short time, on the basis that the Government will fully underwrite whatever they have decided but have yet to calculate the precise figures. But the need to fix LA budgets for next year means that the issue cannot be postponed for long.

#### Imposing a solution

8. The Government must be clear now on its fall-back strategy in case a negotiated solution cannot be achieved. The precise details do not need to be settled at this stage. But it would be prudent to begin preparing the legislation now, as Mr Baker suggests. The Government must also consider tactically how far they should declare their hand. The employers and unions cannot be given unlimited time to complete their discussions, because local authorities should if possible be in a position to know the cost on the pay bill and the resources and grant flowing from Government before they set their budgets for 1987/88. Moreover, the longer a settlement is delayed the greater the scope for the unions to mount a campaign of disruption; and the greater the difficulties in securing early legislation.

9. If the target were to have legislation in place by 1 April, the Business Managers consider that it would certainly have to be introduced and have a second reading before Christmas. This means that the unions and employers would have to make significant progress within about four weeks of the Government's conditional offer, and this timescale would have to be indicated to them. In practice, given that some unions will wish to undertake ballots, a final settlement might not be achieved on this timescale, but the picture should be sufficiently clear by the beginning of December for the Government to decide whether immediate legislation is required in either country. This points to the initial Government statement saying that Ministers were looking for the negotiations to be essentially completed by, say, 10 December, and that if the issue could not be resolved satisfactorily by then, the Government would have to find other ways of settling the problem.

#### Nature of the Legislation

10. On the Education Secretary's proposals for legislation, three issues arise:

i. Two Bills or one?

Mr Baker still envisages (paragraph 20) a swift, urgent Bill to remove the Burnham machinery, followed by a longer Bill establishing the new interim Advisory Committee and giving him powers to determine conditions of service. The Business Managers remain of the view that this procedure will run into difficulty in Parliament. It is not clear that such a Bill would be needed unless Burnham seeks either to introduce new salary levels (probably higher than now suggested by analogy with Main) without conditions or to remit pay in 1986-87 to arbitration; in that event the Government would have a clear reason for quick action in advance of the more comprehensive Bill. The possibility cannot, therefore, be ruled out.

ii. Specific Grants

Mr Baker has picked up the suggestion made at the last meeting that the provision of extra grant should be conditional on local authorities implementing the Government's

policies. The Chief Secretary and other Ministers have doubts on the ground that this approach would change fundamentally the relationship between central and local government and should therefore only be undertaken after careful consideration; that in practice discretionary penal powers are difficult to use effectively (particularly given the risk of judicial review); and that specific grants have a tendency to be used as a lever to increase spending. This issue need not, however, be decided now. If the Group consider it worth pursuing further, a more considered paper on the topic might be commissioned and Mr Baker would need to keep the options open in any public statements in the meantime.

iii. Terms of reference for the Advisory Committee

Mr Baker argues that the Government could not seek an unfettered power to fix teachers' pay and conditions; such a power could only be exercised in the light of the recommendations of an Advisory Committee which could only be set aside with the support of Parliament. The Chief Secretary is concerned that such arrangements would unduly tie the Government's hands, and that the Committee might refuse to work within the cost envelope specified by the Government. The first issue is a straight political judgement whether the role of the Committee could command the confidence of the teachers and the general public if its recommendations could readily be set aside; Mr Baker thinks not. On the second, the Government could be confident that the Committee would work within the Main envelope for 1987-88 (and the Government could insist on this in advance); but in subsequent years such a restriction could not be imposed (there would be no Main report to justify it), and the effect would inevitably be to destroy its validity in the eyes of teachers.

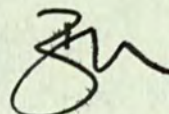
11. There is also a problem over the question of legislation for Scotland, on which the Group ought to reach a clear conclusion. If the Government accept the Main recommendation that the role of

the SJNC should be ended and that an independent body be established in its place, legislation will be necessary. This is not made clear in this paper, but paragraph 25 acknowledges that legislation would be necessary if the SJNC failed voluntarily to reach an acceptable deal. In order to reduce the chances of the SJNC rejecting the deal, the Scottish Secretary would like to fudge the question of legislation for a few weeks. The knowledge that they were to be hanged by legislation on the morrow would, in his view, drive them in exactly the opposite direction from that desired. However, if Mr Baker is obliged to declare at the outset his full legislative intentions (ie replacement of Burnham by new arrangements) it would be more difficult for the Scottish Secretary to conceal his ultimate intentions. You will need to ask the Scottish Secretary to clarify his intentions on this.

## HANDLING

12. You will wish to invite the Education Secretary to introduce the paper, and the Scottish Secretary to add any comments. The Chief Secretary, Treasury will wish to speak generally and in particular about the staging options. The Welsh Secretary, Environment Secretary, and the Chancellor of the Duchy of Lancaster will also have views. The Lord President of the Council and the Lord Privy Seal will have views on the Parliamentary tactics.

13. If agreement on how to move forward is in sight, you will want to arrange for a paper for consideration by Cabinet next Thursday (30 October).



J B UNWIN

Cabinet Office  
24 October 1986