PREM 19/733

PART 2 ends:-

S/S DES to chan Exch 31.3.82

PART 3 begins:-

S/S Scot to chan Exch 1.4.82

TO BE RETAINED AS TOP ENCLOSURE

Cabinet / Cabinet Committee Documents

Reference	Date
CC(80) 31st Meeting, Minute 4 LCA	31.7.80
E(80) 29th Meeting, Minutes 1, 4 & 5, LCA	4.8.80
E(EA)(80) 55	4.11.80
E(EA) 21st Meeting, Minute 3	10.11.80
E(81) 11	10.2.81
E(81) 6th Meeting, Minutes	12.2.81

The documents listed above, which were enclosed on this file, have been removed and destroyed. Such documents are the responsibility of the Cabinet Office. When released they are available in the appropriate **CAB** (CABINET OFFICE) CLASSES

Signed C A Wayland Date 23 August 2012

PREM Records Team

Published Papers

The following published paper(s) enclosed on this file have been removed and destroyed. Copies may be found elsewhere in The National Archives.

Cmnd. 7880: Standing Commission on Pay Comparability; Report No 7: Teachers
HMSO, April 1980

Signed CMWaylana Date 23 August 2012

PREM Records Team

PRIME MINISTER

You asked for this.
Mr Carlisle has a copy MJS

SCHOOL TEACHER PAY SCALES (E+W)

		1 1/4/78	2 1/4/79	3 1/4/80	4 1/4/80	5 1/9/80
Scale 1	Min	2964	3231	3519	3972	4326
(141,500 teachers)	Max	4662 (5010)[8]	5082 (5463)[8]	5514 (5928)[8]	6228 (6696)[8]	6807 (7320)[8]
Scale 4	Min	5010	5463	5928	6696	7320
(27,500 teachers)	Max	6621	7218	7905	8937	9834
Headteacher[6] 1 Gp 5 (most common headteacher scale)	Min	6252	7032	7701	8706	9579
	Max	6939	7776	8514	9624	10593
Headteacher[7] Gp 14	Min	10,902	11883	13368	15150	17229
	Max	11.544	12585	14160	16047	18249

1 Pay rate on election day
2 Pay scales paid from 1 July 1979 backdated to 1 April 1979
3 First stage of Clegg award
4 Proposed arbitration award (ie 12% across the board)
5 These scales would include both the second stage of the Clegg award plus the second element of the arbitration award (2.6%)

6 Includes 6000+ headteachers

7 ~~Includes~~ Under 25 headteachers

8 Extended scale for good honours graduate

dk

CONFIDENTIAL

c/c JV

Prime Minister (2)

MCS 31/3

DEPARTMENT OF EDUCATION AND SCIENCE

ELIZABETH HOUSE, YORK ROAD, LONDON SE1 7PH

TELEPHONE 01-928 9222

FROM THE SECRETARY OF STATE

The Rt Hon Sir Geoffrey Howe QC MP
Chancellor of the Exchequer
Treasury
Parliament Street
London
SW1P 3AG

Note
Asked Emogen Wade to let us have their considered view on this legal advice: by 8/4/82.
MCS 5/4

31 MARCH 1982

Dear Geoffrey,

TEACHERS' PAY IN ENGLAND AND WALES

The outcome of Thursday's meeting of the Burnham Committee is public knowledge, but I should report to you and colleagues on the events which led to it.

Most of the day's action lay in the Management Panel rather than in the Burnham Committee itself. The main phases of the action, over-simplified, were these:

(a) the ACC, whose members had requisitioned the meeting, favoured a real attempt to discover whether a negotiated settlement was possible and at one stage proposed to take soundings on 4½% to test the teachers' attitude; that was defeated by the combined votes of the AMA (who continued to maintain that arbitration was the only sensible course) and my representatives in accordance with our instructions;

(b) a proposal by the AMA to agree to arbitration was defeated by the votes of the ACC (believing that a negotiated settlement was preferable and achievable) and my representatives in accordance with our instructions;

(c) pressed to explain what the employers saw as inconsistency in my position in these two votes, my representatives said my view was that the Panel might very reasonably make an offer akin to that made to the civil service;

(d) this brought the associations together on the proposition that, if it was clear that my position was such that the ACC considered that it prevented their pursuing their quest for a negotiated settlement, then they would join with the AMA in agreeing to arbitration; on a proposal to offer 5.9% (to test my representatives' position) all the employers voted in favour and my representatives against; my veto had then to be formally exercised to block such an offer, and was respected; but an immediately following proposal to agree to arbitration was carried with two employers' representatives abstaining and only my representatives' weighted vote against; and

(e) arbitration was then quickly agreed in the Burnham Committee itself.

This exercise of my powers under the concordat, though unsuccessful in stopping arbitration, has left the local authority employers very angry and embittered. The Chairman of the Management Panel (who is also Chairman of the ACC Education Committee) reconvened the Panel after the Burnham meeting to say that he thought the time had come "to tear up the concordat" because the way it had been used had effectively made it impossible for the local authorities to negotiate with their employees. I expect strong representations very soon from both associations, pressing not only for changes in the Remuneration of Teachers Act but also for earlier changes in practice under the Act as it stands, which may make it difficult for us to secure the second of the objectives in the third paragraph of my letter to you of 23 March - that is, to preserve our present degree of influence for use again on future occasions.

The arbitration on this disagreement in Burnham follows those earlier agreed on civil service pay and on Scottish teachers' pay. Formally, the Management Panel enter the arbitration having offered only 3.4% as against 4% offered in the other two cases; though it must be to our disadvantage that - very unfortunately in my view - the employers' vote in favour of a 5.9% offer has been publicly reported. You may be sure that I will do all I can within the Management Panel, both on the composition of the arbitral body and on the evidence to be presented to it, to work for the best outcome of arbitration that we can secure. I hope that the coincidence of interest between the local authorities and the Government in securing the least damaging outcome will prevail over the divisions and tensions arising from last Thursday's proceedings.

In the fourth paragraph of your letter of 18 March you suggested it might be as well to seek the views of the Attorney General now on the circumstances in which we could legitimately ask both Houses of Parliament to set aside an arbitration award. I have

done that, and enclose his response of 26 March, together with the letter of 19 March and minute of 16 March of Mr Harvey, my Legal Adviser, to which it refers.

Copies of this letter go to the Prime Minister, the Secretaries of State for Scotland, Wales and Northern Ireland, the Attorney General, members of E(PSP) and Sir Robert Armstrong.

Yours,

Geoffrey

Copies: Mrs Wilde, Mr Simpson, Mr Halsey, Mr Langtry, Mr Perkins 3/29/3
Mr Kerry, TSD
REMUNERATION OF TEACHERS ACT 1965, SECTION 4(2)

405 7641 Ext. 242-5688
Comm[illegible]tions on this subject should be addressed to
THE LEGAL SECRETARY
ATTORNEY GENERAL'S CHAMBERS

ATTORNEY GENERAL'S CHAMBERS,
LAW OFFICERS' DEPARTMENT,
ROYAL COURTS OF JUSTICE,
LONDON, W.C.2.

Our Ref: 400/82/89

26 March 1982

Peter Harvey Esq

Department of Education & Science
Elizabeth House
York Road SFI

Dear Peter,

1. The Attorney General has considered the issues raised in your letter to Jim Nursaw of 19 March. As you point out, this is a subject which had a thorough airing in 1980, the particularly relevant documents being the letter of 9 July from the Attorney General to your then Secretary of State, of 21 July from John Biffen (as Chief Secretary to the Treasury) and of 25 July from the Attorney General to your Secretary of State and the Attorney's minute of 1 August 1980 to the Prime Minister. He has also seen a copy of your minute of 16 March 1982 which he endorses subject to the one reservation I refer to below.

2. You ask for a view as to the circumstances in which it would be proper to invoke s.4(2) of the Remuneration of Teachers Act 1965, but I am not sure how the Attorney can give a direct answer to that when we are still in the realms of hypothesis other than by repeating the words of the section, namely that national economic circumstances must require it. I note that you are also careful in your minute to avoid any further commitment. The Attorney agrees with the relevant factors you discuss in that minute, subject to the point I make below as to your paragraph 4. In particular, he agrees with the analysis in paragraph 5 of your minute as to the relevance of the level of pay settlements elsewhere in the public sector to which the Government is a party.

3. It follows from this agreement that the Attorney General's view is that the reference to the national economic circumstances is a reference to a factual situation. In the nature of the requirement, invocation of the section should be an exceptional step. This is fortified by the remarks made in Parliament during passage of the Bill signifying what was intended. Although these may not be relevant in courts of law, they are clearly important so far as the justification for and propriety of taking this step are concerned.

/4. The

405 7641 Ext.
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THE LEGAL SECRETARY
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ATTORNEY GENERAL'S CHAMBERS,
LAW OFFICERS' DEPARTMENT,
ROYAL COURTS OF JUSTICE,
LONDON, W.C.2.

4. The only reservation the Attorney General has on your minute relates to paragraph 4. He considers that it is not necessary to limit the concept of economic circumstances requiring a course of action to times of crisis or near crisis, although this is clearly when use of the procedure is most likely to be appropriate (see John Biffen's letter of 21 July 1980 and the Attorney's response of 25 July 1980). As the 1980 correspondence made clear, it could have been proper for the Government then to have taken the view that economic circumstances required overriding the arbitral award. Circumstances may then have been exceptional but it is not right to say that there was a crisis or near crisis. It remains possible that economic circumstances may require not giving effect to a particular award even though those circumstances are generally improving (although the Attorney General recognises that it may in practice be more difficult to do so). A relevant factor may be the "knock-on" effect of a particular award in the circumstances of the time.

5. Finally, you ask about the differences between this statutory requirement and the condition agreed to in relation to Civil Servants that an arbitral award may be set aside on grounds of overriding national policy. I presume this is in response to the concern expressed by the Secretary of State for Employment at the possible interaction of the arbitration procedures in this case and that of the Civil Service. As your minute points out (paragraph 6), the tests are entirely different. In the former, circumstances must be such as to require action; this connotes something more than expediency. In the latter, the Government may seek Parliamentary override when it considers it expedient to do so on grounds of national policy. Thus allowance of an arbitral award in the case of teachers would not prevent operation of the Parliamentary override in relation to a similar award for Civil Servants. However, having said that, the Attorney General recognises that much the same factors as set out in paragraph 5 of your minute would apply to the case of the Civil Service rendering it difficult to justify invocation of the procedure where there had been a succession of settlements of similar amounts (including the award to teachers). He should not be taken in this instance as putting forward any view as to the circumstances in which use of Parliamentary override in the case of the Civil Service could properly be claimed.

Yours sincerely

Laurence Oates

LAURENCE OATES

Mr Simpson

Department of Education and Science
Elizabeth House York Road
London SE1 7PH
Telegrams Aristides London SE1
Telephone 01-928 9222 ext

Mr J Nursaw
Law Officers' Department
Attorney General's Chambers
Royal Courts of Justice
Strand
LONDON WC2A 2LL

19 March 1982

Dear Jim,

REMUNERATION OF TEACHERS ACT 1965, SECTION 4(2)

You will be aware, in a general way, that the Burnham negotiations on teachers' pay are proving difficult. Though the management side of the Burnham Committee (as they are entitled to do) are at present refusing to agree to arbitration, there is a split on the issue between the ACC who are against, and the AMA, who are in favour of, arbitration. It is only realistic to recognise the possibility that at some point, it is difficult to say when, arbitration may be agreed.

The Secretary of State in that event would, in due course, be faced with an arbitral award which he would be obliged to implement under sections 4(1) and 2 of the Remuneration of Teachers Act 1965 (c3) unless the Government could invoke section 4(2), the "Two Houses resolution" provision.

In a letter to the Secretary of State, the Chancellor of the Exchequer has said:-

> "if you have doubts about the circumstances in which we could legitimately ask both Houses of Parliament to set aside an arbitration award, it might be as well to seek the views of the Attorney General now.".

The Secretary of State appreciates that the Attorney General gave some advice on section 4(2) in the summer of 1980 and he has seen advice recently tendered by me (of which I sent you a copy addressed to Mallinson). He would, however, be grateful for the Attorney General's views as to the circumstances in which it

would be proper to invoke section 4(2). Much would doubtless depend upon the level of the arbitral award and the Secretary of State would like to know how far the level of pay settlements elsewhere in the public sector, to which the Government are a party, might inhibit the invocation of section 4(2). More generally, he would welcome advice on the question whether there is any real difference between section 4(2) and the reservation made when the Civil Service was promised access this year to arbitration, which was to the effect that the Government reserved the right to ask the House of Commons to set aside an arbitral award on grounds of national policy. This seems to me to break down, in the main, into two partly interrelated questions, first, can the reference in section 4(2) to "the national economic circumstances" be equated with Government economic policy or is it a reference to a factual situation. Secondly, can the word "requires" in section 4(2) properly be construed as more or less synonymous with "renders it expedient" or does it come close to "unavoidable necessity".

There is a further question on which the Secretary of State would find the Attorney General's views helpful should he favour the view that "national economic circumstances" refers to a factual situation (even if it is not one on which he can give firm advice); it relates to the nature of the circumstances contemplated by section 4(2). I have already drawn attention to what the Attorney General said in the fourth paragraph of his letter to the Secretary of State on 9 July 1980 and expressed my own belief that it is only proper to invoke section 4(2) in a state of crisis or near crisis. While out of context the expression "national economic circumstances" is entirely neutral, it seems to me that in the context of section 4(2) the circumstances must at the very least be sufficiently bad to justify invoking what Parliament, in my judgement, intended to be an exceptional procedure.

Should the Attorney General wish for a conference, I am at his disposal. I should, perhaps, tell you that I am going north for the weekend and shall not be in the Office on Monday until lunch-time.

Yours sincerely

Peter Harvey

Peter Harvey

Reference.....

CONFIDENTIAL

cc Mr Halsey
Mr Langtry
Mr Mallinson (2 copies)

MR SIMPSON

REMUNERATION OF TEACHERS ACT 1965 - SECTION 4(2)

1. Thank you for your minute of 15 March.

2.-(1) First, a note of caution. It seems to me not impossible that elements on the management side of the Burnham Committee, before agreeing to arbitration, may seek some assurance that, if the arbitration award was excessive (or at least in their view excessive), the Government would invoke section 4(2) of the Remuneration of Teachers Act 1965.

-(2) To state the obvious, whether or not it was appropriate to invoke section 4(2) would depend, first, on the precise recommendations of the arbitrator and, secondly, on the national economic circumstances prevailing when a decision fell to be taken. To indicate in advance that section 4(2) would be invoked could well be taken to be an indication that section 4(2) would be invoked to give muscle to Government pay policy without regard to the statutory criteria, something wholly improper. I think that care should be taken at this stage to say no more than that section 4(2) would be invoked if Ministers were satisfied that the national economic circumstances prevailing when the matter came up for decision required that the arbitral award be set aside.

3.-(1) While it may be convenient to use the phrase "the two Houses resolution procedure" as shorthand for action under section 4(2), I think it important that the use of shorthand should not lead to the statutory criteria being forgotten. The resolution which would have to be carried in both the Commons and the Lords would be "that the national economic circumstances require that effect should not be given to the recommendations".

-(2) While the precise "national economic circumstances" will always be to some extent a matter for judgement, such circumstances are factual ones which should be judged objectively and can scarcely be equated with Government economic policy. "Require" is a very strong word; Parliament used that word in section 4(2) and did not use some such expression as

CODE 18.77

"[having regard to] [on the grounds of] the national economic circumstances [it is inexpedient/undesirable that effect] [effect should not] be given to the recommendations". As the Attorney General said in the fourth paragraph of his letter to the Secretary of State of 9 July 1980:-

> "It is likely to be argued against you that this sub-section was contemplating a situation like the 1931 economic crisis and that its use in the present circumstances had not been intended by Parliament. HMG would therefore have to satisfy both Houses that the present national economic situation was the justification for the resolution and that it was not simply that HMG did not like the award.".

4. If, as I believe, it is only proper to invoke section 4(2) in a state of crisis or near crisis, it would seem difficult for the Government to invoke the section at a time when they maintain that the economy is improving.

5.-(1) You ask in paragraph 3 of your minute what the relevance of other pay settlements in the 1981/82 pay round would be.

-(2) It seems to me that they could not be said to be irrelevant though no particular settlement, of itself, could be said to be conclusive. For example, even if national economic circumstances dictated a general pay freeze, there could still be, by way of exception, special cases without in any way casting doubt on the genuineness of the economic crisis. The fact that a particular pay settlement was made at a high level is not conclusive evidence that the national economic circumstances may not require that the generality of pay settlements be at a lower level. If, however, the generality of pay settlements to which the Government were a party (taking into account not only the number of settlements but also the numbers of staff covered by different settlements) were above X%, it would seem to me well nigh impossible for the Government, in good faith, to argue that an X% arbitration award for teachers should be set aside under section 4(2) unless they were also prepared to assert that there had been a sudden worsening in the economic circumstances.

6.-(1) In paragraph 4 of your minute you raise the question of the difference between the phrase "national economic circumstances" and the phrase "national policy".

-(2) As is implicit in paragraph 3(2) above, the two phrases seem to me significantly different. In the context of a Civil Service arbitration, "national policy" must, I would submit, mean Government policy of general application (ie not a Government policy applicable to the Civil Service alone). But the "national economic circumstances" refer to the factual state of the national economy and not to Government economic policies. It should also be noted that the phrase "on the grounds of" is much looser than "requires". "On the grounds of" looks to motive but, in my view, "requires" looks more to objective necessity.

7.-(1) May I remind you of a point I made when, in 1980, we were considering section 4(2).

-(2) It seems to me politically inconceivable that, if resolutions in pursuance of section 4(2) were moved, the Government would not in practice have to disclose what they were proposing, under section 4(3), to put in place of the arbitral award. It seems to me that, unless the award and the Government proposal were fairly wide apart, the argument that the national economic circumstances ruled out the one but permitted the other would look somewhat suspect and difficult to substantiate. It might well be that the level of the generality of pay settlements in the 1981/82 pay round, to which the Government by then would have been a party, would in practice lead the Government to propose to substitute something not all that less than the arbitral award. If that looked like being the case, I think that Ministers would be well advised to think twice before invoking section 4(2).

8. If section 4(2) is invoked and resolutions are carried in both Houses, even if it is argued by opponents of the Government that they have acted improperly or in bad faith, the effect of the resolutions cannot be challenged. As the Attorney General said in paragraph 7(2) of his letter of 1 August 1980 to the Prime Minister:-

> "If the resolutions are passed in each House according to the correct procedure, there is no legal basis for attacking them;".

But it would, in my view, be improper for resolutions to be moved, even though the Government were satisfied that they could be carried with the help of the Whips, unless Ministers were in good faith satisfied that the case was such as Parliament contemplated in section 4(2).

Peter Harvey

Peter Harvey
16 March 1982

Prime Minister (2) cc JV

MLS 31/3

2 pts Education.

DEPARTMENT OF EDUCATION AND SCIENCE

ELIZABETH HOUSE, YORK ROAD, LONDON SE1 7PH

TELEPHONE 01-928 9222

FROM THE SECRETARY OF STATE

MT

Rt Hon Sir Geoffrey Howe QC MP
Chancellor of the Exchequer
HM Treasury
Parliament Street
London SW1P 3HE

31 March 1982

Dear Geoffrey,

PAY OF FURTHER EDUCATION TEACHERS IN SCOTLAND

If, as you wrote in your letter yesterday to George Younger, it would be an advantage to the Government (in terms of the pay round as a whole) to have an early settlement at 5½%, I am not clear why I had to instruct my representatives at Burnham last Thursday to veto any offer above 4% even if it would have secured a settlement.

but it was clear that 5-5½% would not have secured agreement at Burnham

We judged last week that the Government should be seen to be holding firm on a 4% line, even if outvoted by the local authority employer interests. As there is conveniently a meeting of E(PSP) tomorrow, we might take a moment to consider whether the same should not apply here also.

It may well be that there are other factors to take into account and I raise the issue simply so that we may seek as much coherence as possible.

I am copying this letter to the Prime Minister, George Younger, Members of E (PSP), Nicholas Edwards and Sir Robert Armstrong.

Yours, Ken

CONFIDENTIAL

Prime Minister (2)

The Chancellor was aware of your 4% ceiling for English and Welsh teachers. But X seems to have been decisive.

MCS 30/3

Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

30 March 1982

The Rt Hon George Younger MP
Secretary of State for Scotland
Scottish Office

Dear George

PAY OF FURTHER EDUCATION TEACHERS IN SCOTLAND

Thank you for your letter of 24 March. in pm's box

The possibility of a 5½ per cent settlement with the Scottish further education teachers poses difficult issues both of substance and tactics. I realise, moreover, that you can only influence, and not determine, the line which the Management Side decide to take.

X On the substance, my judgement is that an early settlement at 5½ per cent would on balance be helpful. A settlement at 4 per cent on the lines of what has already been offered would of course be better. But I imagine that the chances of this are negligible; and the result of holding the offer to 4 per cent would presumably be arbitration, as in the case of English and Welsh school teachers. Even if the outcome of arbitration was 5½ per cent (and a lower outcome would perhaps be unlikely), it would not have the advantage (in terms of the pay round as a whole) of giving us an early settlement at that level.

On the tactics, it is clearly of the utmost importance that 5½ per cent should only be offered if it will be accepted. A rejected 5½ per cent offer, or one which the Staff Side simply kept in play while they considered going to arbitration, would be very damaging.

On balance, my view is that your representatives should support a 5½ per cent offer, but only if there is near total certainty that it will be accepted. The employers will also need to be clear that the cost can be accommodated within the relevant cash limits. And my judgement is in any case subject to any worries which Keith Joseph might have about any possible adverse effects of a 5½ per cent settlement on the prospects for low settlements with further education teachers in England or with university teachers.

/Finally, on your

CONFIDENTIAL

Finally, on your concluding paragraph, I think that it would be desirable for us to take the initiative in drafting the economic argumentation for inclusion in evidence to the arbitrator on Scottish school teachers. Perhaps your officials could clear with mine a suitable draft passage which could be tabled by the Management Side.

I am copying this letter to the Prime Minister, Keith Joseph, Members of E(PSP), Nicholas Edwards and Sir Robert Armstrong.

GEOFFREY HOWE

Education
Teachers Pay
Pt 2.

cc MS

With Compliments

MR E H SIMPSON

DEPARTMENT OF EDUCATION AND SCIENCE

Elizabeth House
York Road
London, S.E.1.

Telephone 01-928-9222 *Extn.*

Education

26 March 1982

J M M Vereker Esq
No 10 Downing Street
LONDON
SW1

TEACHERS' PAY: ARBITRATION

At the Prime Minister's meeting about teachers' pay on the afternoon of 24 March I briefly explained how the arbitral body comes to be constituted when a disagreement in one of the Burnham Committees is referred to arbitration. It may be helpful if I set down for reference, and a little more fully, what I said then.

The arrangements for arbitration made by the Secretary of State under Section 3 of the Remuneration of Teachers Act, which in these respects are effectively unchanged since 1965, provide as follows:

> "An arbitral body shall consist of three members, a Chairman, who shall be an independent person appointed by the Minister of Labour after consultation with the Panels, and two members who shall be selected by the Minister of Labour, one from each of two lists of not fewer than four persons each considered suitable by the Teachers Panel and by the Management Panel respectively of the relevant Committee."

The function here assigned to the Minister of Labour is now carried out by ACAS.

When appointing the Chairman to an arbitral body it is ACAS's practice to suggest four or five names, from their list of suitable independent persons, to the Panels of the Burnham Committee who are each asked to rank the names by order of preference. When appointing the side members ACAS ask each Panel to submit a list of four persons and it is the normal convention that ACAS appoint the first name on each list. The intention, and in all foreseeable circumstances the practical effect, of this is that neither Panel will be obliged to submit to arbitration under a Chairman whom they regard as unacceptable, and that each Panel will be able to secure the appointment of a side member whom they consider to be sympathetic to their interests.

It is the Management Panel, and not the Secretary of State, that joins in these procedures. But the Secretary of State through his representatives, as constituent members of the Management Panel, joins in deciding the Panel's actions.

The arbitration arrangements also provide that:

> "Evidence whether oral or written or both shall be given, in such form as the arbitral body may require, on behalf of the Teachers Panel as a whole and of the Management Panel as a whole respectively."

Again, the Secretary of State through his representatives joins with the local authority associations in formulating the evidence to be given by the Management Panel.

I am copying this to the Private Secretaries of the Ministers who were at Wednesday's meeting, and to Peter Gregson.

E H SIMPSON

CONFIDENTIAL

cc JV

Prime Minister (2)

Interesting support for the line you took yesterday.

MCS 25/3

SCOTTISH OFFICE
WHITEHALL, LONDON SW1A 2AU

The Rt Hon Sir Keith Joseph Bt MP
Secretary of State for Education and Science
Elizabeth House
York Road
London
SE1 7PH

Copy to
PS/Mr Fletcher
PS/US of S
PS/SED
PS/CS
AUS of S
Mr Murray DH

25 March 1982

Dear Keith,

MT

TEACHERS' PAY

Thank you for sending me a copy of your letter of 23 March to Geoffrey Howe about teachers' pay.

As I reported in my own letter to Geoffrey of 17 March, the pay claim made by the Scottish school teachers went to arbitration after the Management Side had refused to make any offer in advance of 4%; and, as I indicated in my further letter of 24 March, the general line of the Management Side evidence in the arbitration is likely to be that the financial constraints imposed by the rate support grant cash limits leave the local authorities with no effective room for maneouvre beyond the 4% limit. Against that background, any offer to the school teachers in England and Wales which goes substantially further than 4% (whether it results in a negotiated settlement or not) would obviously tend to weaken the Management Side's case in the Scottish arbitration and perhaps result in an arbitral award higher than it would otherwise have been.

You are of course in a better position than I am to judge the tactics for tomorrow's Burnham meeting, but I hope that it will not be necessary for the Burnham Management Side to move much beyond 4%, and certainly not to the 6 or 6½% level mentioned in the last page of your letter.

I am copying this letter to the Prime Minister, the Chancellor of the Exchequer, the Secretries of State for Wales and Northern Ireland, the Attorney General, members of E(PSP) and Sir Robert Armstrong.

Yours ever,

George

CONFIDENTIAL

Education
Teachers Pay

Prime Minister (2)

I am sending Mr Younger a copy of the record of today's meeting with Sir K Joseph, in the hope of stiffening Scottish resolve.

Copy to
Mr I M Wilson
PS/SED
PS/US of S
PS/CS
AUS of S
Mr Murray DH
Mr Sutherland, DH
Mr Lindsay SIO

The Rt Hon Sir Geoffrey Howe QC MP
Chancellor of the Exchequer
HM Treasury
Parliament Street
London
SW1P 3HE

MT

24 March 1982

Dear Geoffrey,

MCS 24/3

TEACHERS' PAY

In my letter of 17 March about the negotiations for the pay of school teachers in Scotland I mentioned that the Scottish Joint Negotiating Committee for Teaching Staff in Further Education (SJNC(FE)) - responsible for the parallel negotiations relating to lecturers in further education, colleges of education and central institutions - would be meeting on that day. I am now writing to let you know the outcome of the meeting.

At a preliminary session the Management Side of the SJNC(FE) considered their strategy in the light of developments in other public sector pay negotiations, in particular the decision of the SJNC(Schools) on 15 March to go to arbitration after rejection of a 4% offer. Taking account inter alia of the undesirability of prejudicing those arbitration proceedings and of the cash limit restrictions in the case of the colleges of education and central institutions (which are wholly funded by my Department), they decided to offer a pay increase amounting to a 4% addition to the total paybill, on the basis that the detailed distribution would be open for discussion subject to a Management Side preference for some weighting in favour of the lower paid.

At the full meeting of the SJNC(FE) the lecturers took the line that this offer would effectively reduce their standard of living and was quite out of keeping with higher settlements already achieved in the public sector by police, firemen and manual workers and with the offer to nurses. The Management Side drew attention to the financial limitations within which they must work and refused to increase their offer beyond 4%. After further discussion, the formal position at the end of the proceedings was that the 4% offer remained on the table.

However, in strictly private and informal discussions between the Chairmen of the Sides it emerged that the lecturers might be willing to settle for an offer amounting to 5½% of the total paybill, on the basis that the increase would be 4.8% or 5% in the centrally-funded colleges of education and central institutions and perhaps up to 5.8% in the local authority sector. Although there were clear attractions to the Management Side in securing a quick settlement at that figure, they had serious reservations about the detailed working out of a suitable package -including the effect which such a settlement might have in setting a base-line for the impending arbitration in the schools sector, the ability of the centrally-funded colleges to meet even a 4.8% increase and the effect on the Burnham negotiations. The Management Side Chairman therefore indicated to his opposite number that more time was needed to enable possible options for distributing a 5½% award to be worked out and studied by the Management Side as a whole.

In these circumstances it was agreed that the formal negotiations would be adjourned until 30 March. In the meantime, the public position will be simply that a 4% offer has been made and that, although it has not been accepted, discussions are continuing. The possible 5½% figure is not being made public by either Side - for obvious reasons.

The essential issue on which the Management Side will have to form a view is whether a 5½% increase in the further education sector in Scotland would be acceptable in a wider context. It can be argued that the eventual settlements for teachers (both in Scotland and in England and Wales) may well all have to be at least at this level and that an early settlement in one sector would make it more difficult for those in other sectors to achieve more; on the other hand it would probably ensure also that no sector would get less. Nor can one entirely dismiss the danger that, if the SJNC(FE) Management Side were formally to offer 5½%, the lecturers might simply prolong the proceedings to see whether anything better emerged from the arbitration for the schools sector in Scotland or from negotiations in Burnham. There is unlikely to be a division on political grounds among the local authority representatives on the Management Side, among whom the strongest hard-liners are some of the labour members; and, if in the end of the day they do decide to settle at 5½%, I would have to accept this. As you know, my representatives have no veto and no weighted vote, but they will of course continue to press hard for as moderate a settlement as possible. I am glad to say that there seems no disposition at all in Scotland for the local authorities to be looking to the manual workers' settlement or even the offer to the nurses as a public service norm.

I should add that, in relation to the arbitration in respect of the Scottish school teachers, my officials will be closely involved in the preparation of the written evidence to be submitted by the Management Side as a whole. (It is not open to me to submit separate evidence.) The general line of that evidence is likely to be - as we would wish - that, with the constraints imposed by rate support grant cash limits and the inhibitions against charging to rates anything which might be regarded by me as excessive expenditure, there is no effective room for maneouvre beyond the 4% limit.

As before, I am sending copies of this letter to the Prime Minister, Keith Joseph, members of E(PSP), Nicholas Edwards and Sir Robert Armstrong.

Yours ever,

George.

Education VB

File

Subject

cc MASTER

cc: HMT
CE, HMT
D/M
SO
WO
NIO
LOD
LPO

DOE
DHSS
CDL
CO
bc: John Vereker

10 DOWNING STREET

From the Private Secretary

24 March 1982

TEACHERS' PAY

The Prime Minister held a meeting this afternoon with your Secretary of State to discuss his letter to the Chancellor of the Exchequer of 23 March about tactics in the teachers' pay negotiations. The Secretary of State for Employment, the Chief Secretary, Mr. E.H. Simpson of your Department and Mr. Peter Gregson of the Cabinet Office were also present.

The Prime Minister said that she had considerable doubts about the approach set out in your Secretary of State's letter. Agreement to a 6½% offer for the teachers would have damaging repercussions on other pay negotiations: in particular on the National Health Service negotiations, where the 6.4% offer to nurses was considered by the Government to be a wholly exceptional offer; and also on the Civil Service negotiations. She doubted, too, whether the teachers' unions, having been offered 6 or 6½% would be prepared to settle at that level. In that case the matter would, presumably, go to arbitration, and the arbitrator would start from a floor of 6½% rather than from the 3.4% currently on offer.

Your Secretary of State pointed out that it was not within the power of the Government's representatives on the Management Panel to veto a move to arbitration. Their sole power of veto was over the total cost of the pay offer. Nor could the Government seek to override the award of an arbitrator simply because it was unacceptable. Such an award could be set aside only if each House of Parliament resolved that "national economic circumstances required" that effect should not be given to the arbitrator's recommendations.

In discussion it was argued that the repercussive effects of a high outcome would be greater if they arose from Government agreement to such a figure rather than through the imposition of an arbitral award. In the light of this there was the strongest case for the Government's representatives voting against arbitration. Such action would also strengthen the Government's hand if it decided subsequently to seek Parliamentary override: although the concordat precluded revelation of how the votes were cast within the Panel, there was nothing to prevent Ministers informing the House of the instructions they had given to their representatives on this score.

/ The Prime Minister

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The Prime Minister said that it was agreed that the Secretary of State's representatives should not go above 3.4% unless they were confident that a higher offer, of up to 4%, would be accepted. They should continue to vote against a move to arbitration. If they were successful in this, and were asked what the Government's suggestion as to the next move should be, their reply should be to propose a structured offer within 4% which, like the Civil Service offer, gave least to the more junior grades and most to the more experienced grades and those most in demand. If the Government's representatives were out-voted, all available arguments should be publicly deployed: that the move which was being forced upon the Government would lead to a shortage of non-pay funds for education, and thus damage to the education system (shortages of books and so on); and that teachers, who had secure jobs, with inflation-proofed pensions, and very long holidays did not deserve a pay increase above the offer. The Government should also take care, if the matter went to arbitration, to ensure that any unacceptable names on the ACAS list of arbitrators were rejected: it would be most important to get the right arbitrator.

I am sending copies of this letter to Peter Jenkins and Terry Mathews (HM Treasury), Barnaby Shaw (Department of Employment), Muir Russell (Scottish Office), John Craig (Welsh Office), Stephen Boys-Smith (Northern Ireland Office), Jim Nursaw (Attorney-General's Office), the other members of E(PSP) and David Wright (Cabinet Office).

Mrs. Imogen Wilde,
Department of Education and Science.

BF

CONFIDENTIAL

DEPARTMENT OF EDUCATION AND SCIENCE

ELIZABETH HOUSE, YORK ROAD, LONDON SE1 7PH

TELEPHONE 01-928 9222

FROM THE SECRETARY OF STATE

The Rt Hon Sir Geoffrey Howe
QC MP
Chancellor of the Exchequer
Treasury
Parliament Street
LONDON SW1P 3AG

23 March 1982

Dear Geoffrey,

TEACHERS' PAY

Thank you for your letter in response to mine of 16 March. Though your assessment of the best tactics, and those of the Prime Minister and Norman Tebbit, differed from mine, I saw no immediate difficulty since I did not expect matters to come to a head at the 18 March meeting of the Management Panel of the Burnham Primary and Secondary Committee.

In the event the AMA element argued that the claim should now be put to arbitration without any further attempt at negotiations. This was twice put to the vote in slightly different forms, and voted down with my representatives voting against. No agreement was reached in the Panel as a whole about the next steps. The ACC majority argued in favour of further negotiations, implying that they are ready to make an offer above 3.4%, but without saying what sort of figure they have in mind - I believe this may have been largely because they feared any reference to a particular figure might leak in advance of a further meeting of the Burnham Committee. A further meeting of the Burnham Committee is to take place on 25 March. It seems certain that this is the last chance for a negotiated settlement. Neither AMA nor the teachers were willing to fix a further meeting, and this is taking place only because a sufficient number of ACC members have "requisitioned" it, as they can under the rules. AMA have indicated that they will attend, and have said that they will use it to continue to press for arbitration (but they have not said they will refuse at this meeting to take part in negotiations). AMA apart, if this meeting fails, even the moderates on the teachers' side will conclude that there is no point in seeking anything but arbitration.

CONFIDENTIAL

I assume there is no disagreement amongst us that we have two objectives in view:

a. to use the degree of influence the voluntary concordat gives us in the Management Panel to help to secure the lowest possible eventual settlement, by whatever means; and

b. to preserve that degree of influence for use again on future occasions.

On that assumption, I think it is important for me to clarify one point about the possibility of the claim being referred to arbitration. It is not possible for us to ask both Houses of Parliament to set an arbitral award aside "should we find it unacceptable" as suggested in Norman Tebbit's letter. The Act is very specific, and we can only set an arbitral award aside if "each House of Parliament resolves that national economic circumstances require"that effect should not be given to the arbitrators' recommendations. Precisely what "national economic circumstances" means must to some extent be a matter for judgment, but they can scarcely be assumed to be equated with Government economic policy. The Attorney General said in his letter of 9 July 1980 to Mark Carlisle, "It is likely to be argued against you that this sub-section was contemplating a situation like the 1931 economic crisis and that its use in the present circumstances had not been intended by Parliament. HMG would therefore have to satisfy both Houses that the present economic situation was the justification for the resolution and that it was not simply that HMG did not like the award". I do not agree with you and Norman Tebbit that voting against arbitration within the Management Panel would in any way strengthen our hand in subsequently arguing that "national economic circumstances require" resolutions in the two Houses of Parliament. In any case, the concordat precludes my revealing how votes were cast within the Panel. As you suggested I am seeking the Attorney General's advice about the circumstances in which we could legitimately ask Parliament to override an arbitration award.

The Management Panel have to choose amongst three possible courses of action:

a. to make further offers in the realistic expectation of negotiating an agreed settlement;

b. to agree to arbitration;

c. to do neither, preferring to withstand the teachers' disruption in the schools even if they were to extend it to limited strikes.

Two more points before I come to what may happen at Thursday's meeting. The first is that even if (c) is the outcome on Thursday, information reaching me from the ACC leaders makes it clear that the local education authorities will not be prepared to see the schools disrupted in the summer (examinations) term; and that even though a few members of the Management Panel will want on 25 March

to resist arbitration at any cost in disruption terms, and by voting with them my representatives might temporarily block access to arbitration, this position would not hold for long as industrial action becomes more severe. The second is that within the panels the AMA and ACC are now motivated in part by their political differences as well as their common employer interest, and each wants to be seen to win; and within the teachers panel there is a similar conflict between the NUT and the NAS/UWT. For their different reasons, the two majority parties, the ACC and the NUT, may be willing to force a negotiated settlement. These considerations lead me to the conclusion that a negotiated settlement may be available on Thursday (but not later) which, though higher than we would like is preferable to the real alternative, an arbitral award which could be still higher.

Now as to what may happen on Thursday. The ACC want to negotiate, on the grounds that a settlement may be possible at a level below that which would result from arbitration. They will however not wish to embark upon negotiations, even in private "behind the chair" unless they believe they will be able to make an offer which stands a good chance of acceptance. Any offer above 3.4%, even made in private, may well become known and set in effect a new base from which arbitration might eventually proceed. This is indeed part of the AMA case for going to arbitration immediately. It is quite possible that even before the formal proceedings of the Committee begin, there will be another session of the Management Panel in which the AMA will again insist on a vote on the question of going to arbitration. If that should happen I believe my representatives should leave it to the ACC and should not themselves vote against arbitration. If they do vote against arbitration on that occasion, they will come under strong pressure to say what they consider should happen instead of arbitration. Informal soundings suggest that if they say that no offer should be made above 4%, then the ACC may well join with the AMA and force arbitration whatever we say. But the other alternatives, of my representatives actually arguing (let alone voting) for an offer above 4% (rather than consenting if the employers wish to make an offer above 4%), or arguing that any degree of disruption is preferable to arbitration, seem to me to be wholly unacceptable or unrealistic. True, that increased disruptions would risk the teachers losing any public support they had, but, under it I believe that the employers would crumble. As I made clear in my letter of 16 March, the ACC can outvote the AMA and the WJEC, provided they are solid. As it happens, they would have been able to maintain the line against arbitration last week even if my representatives had not joined them in voting against arbitration.

Assuming then that the ACC stand firm at this stage, and reject arbitration, they will have to have my consent to a figure which they believe will make it worthwhile entering into private negotiations behind the chair. Indications from the ACC leadership lead me to believe that they will not be prepared to enter such negotiations with a 5% ceiling, or even a 5½% ceiling. Such a ceiling, next Thursday, would run a severe risk that negotiations will not start and that the Management Panel will simply agree to arbitration at the beginning of the day. Much as I dislike the

Prospect of a settlement at this kind of level, I believe it would be a mistake to reject the possibility of such a settlement only to finish up with an even higher arbitral award. I wholly agree that it was our intention that the 6.4% offer to the nurses should be exceptional. I would therefore propose that my officials be authorised to consent to negotiations behind the chair on the basis that they should not exceed 6%. (They would not concede 6% at the outset, of course, but would have authority to concede that if it were necessary to do so to enable negotiations to take place). The question then arises as to whether any increase on that 6% should be authorised at any stage. My judgment remains as in my letter of 16 March, that if a stage is reached where the Chairman of the Management Panel is confident that 6½% will result in a settlement, but failure to agree to 6½% will result in arbitration, then we should accept 6½%. I therefore propose to instruct my representatives accordingly.

Of course I take it for granted that if the outcome were to be arbitration we should use every effort to make the employers' case totally persuasive, but there is still a risk that the award might be higher even than a settlement at the figure I mention .

Copies of this letter go to the Prime Minister, the Secretaries of State for Scotland, Wales and Northern Ireland, the Attorney General, members of E(PSP) and Sir Robert Armstrong.

Yours ever.

Ken

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cc: SO
WO
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DHSS
CH SEC HMT
CDL, MPO
EMP
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BK

Education.

file

f/c SV

10 DOWNING STREET

From the Private Secretary

18 March 1982

Teachers' Pay

As I mentioned to you on the telephone this morning, the Prime Minister is strongly opposed to your Secretary of State's proposals, as set out in his letter to the Chancellor of the Exchequer of 16 May, on the next moves in the teachers' pay negotiations.

The Prime Minister thinks that your Secretary of State's representatives should this afternoon argue strongly against the proposal that the Management Panel should agree to arbitration; that they should vote against arbitration; and that they should be not prepared to agree to offers above 4% - or above 5% if there were concrete evidence of willingness by the unions to settle at 5%. The Prime Minister has commented that the 6.4% offered to the nurses was intended to be an exceptional response to the particular circumstances of that profession, and that it must certainly not be seen as some form of new public service norm.

I am sending copies of this letter to the Private Secretaries to the Secretaries of State for Scotland, Wales and Northern Ireland, the Chancellor of the Exchequer, and the members of E(PSP) and David Wright (Cabinet Office).

M. C. SCHOLAR

Mrs. Imogen Wilde,
Department of Education and Science

CONFIDENTIAL

CONFIDENTIAL

cc JU

Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

17 March 1982

The Rt. Hon. Sir Keith Joseph Bt MP
Secretary of State for Education and
Science

Dear Keith

TEACHERS' PAY

Thank you for your letter of 16 March. will request if required

I am afraid that I cannot agree that we should be prepared to allow an offer to the teachers of up to 6½ per cent, even if there is reason to believe that such an offer would be accepted. As far as I can see nothing has changed to affect our previous judgement that we should permit offers up to 4 per cent, or up to 5 per cent if there were concrete evidence of willingness by unions to settle at that level. The 6.4 per cent offer to the nurses is not a new departure: we have had that in mind for several months, and you have never argued that it would be impossible to hold the teachers to a lower figure. I therefore think that we should continue to adhere firmly to that judgement, as set out in your letters of 10 February and 1 March, and to make the points set out in mine of 8 March.

The question then is how we can best achieve the outcome we want. I believe that your representatives on the management panel should continue to argue, and stand ready to vote, against a reference to arbitration. I understand that the relative voting strengths in the management panel are such that your representatives could prevent arbitration if they secured the support of just under half the ACC representatives alone. And it would be damaging not to associate ourselves with any local authority support which may emerge for the principle of ability to pay. But even if it is clear that there is a majority for arbitration, I think that we should oppose it and vote against it. I cannot see that this would have any adverse consequences, and it would put us in a stronger position if we subsequently wished to seek a parliamentary override of an arbitration award. We would then be able to argue with conviction that we had consistently opposed arbitration this year as inconsistent with the overriding need for a lower settlement which the economy could afford.

/We do not

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We do not of course need to take any decision about seeking an override at this stage. We can deal with that issue if it arises. But if you have doubts about the circumstances in which we could legitimately ask both Houses of Parliament to set aside an arbitration award, it might be as well to seek the views of the Attorney General now. It would obviously help if we could base our tactics on an informed judgement about the application of the override procedure. For my part I would be surprised if any differentiation between groups is excluded. In any case the offer to the nurses is not itself the highest which we have endorsed in the public services in the present pay round.

I am copying this letter to the Prime Minister, the Secretaries of State for Scotland, Wales and Northern Ireland, memebrs of E(PSP) and Sir Robert Armstrong.

GEOFFREY HOWE

ks

CONFIDENTIAL

Caxton House Tothill Street London SW1H 9NAF
Telephone Direct Line 01-213 6400
Switchboard 01-213 3000
GTN 213

cc JV

(2)

Prime Minister (2 letters)

I telephoned and wrote and was assured that the DES representatives would follow your instructions. Here are two letters on similar lines.

MCS 18/3

The Rt Hon Sir Keith Joseph Bt MP
Secretary of State
Department of Education and Science
Elizabeth House
York Road
LONDON SW1

17th March 1982

MT

D Keith

TEACHERS' PAY

I have seen a copy of your letter of 16 March to Geoffrey Howe. I am not convinced that it would be desirable for your representatives at tomorrow's meeting of the management panel to take a neutral line over arbitration. There continue to be sound arguments against arbitration in this case, despite developments in Scotland, and I would have thought that at this stage it would be right for your representatives to argue and vote against it. If the ACC join with the AMA, and your representatives are outvoted, the issue will then have to go to arbitration. But at least in those circumstances it would be less difficult for us to use the Two House procedure to set the arbitral award aside should we find it unacceptable. Clearly we cannot take a decision about the use of the Two House procedure until we see the size of any award. But we should surely aim to leave the option completely open.

Neither am I convinced that it would be worthwhile offering more than 5% in order to avoid arbitration. An early settlement at a higher level, and particularly one as high as 6½%, would be damagingly repercussive. It would be more damaging in my view than a later arbitral award (if arbitration were to be forced on us by the AMA and ACC) at about the same level; and there must be reasonable grounds for hoping, given the convincing arguments that could be deployed by the management side before arbitrators, that the award would not be higher than 6½%.

My preference, for the time being, would be to continue to seek, through negotiation, a settlement at 5% or less; and for the use of the veto, if necessary, against any offer higher than this.

Copies of this letter go to the Prime Minister, the Secretaries of State for Scotland, Wales and Northern Ireland, members of E(PSP) and Sir Robert Armstrong.

Above all, I am concerned at the possible interaction of the arbitration procedures in this case and that of the Civil Service.

Yours
Norman Tebbit

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PM has seen
MCS 18/3

(1) Education

Prime Minister

The acquiescence to 6.4% in the DES letter seems to me alarming. Should not the DES continue to argue against arbitration?

Agree I telephone as at X?
MCS 17/3

cc Mr. Hoskyns

MR. SCHOLAR

TEACHERS' PAY

We had a word about Sir Keith Joseph's letter of 16 March (attached) to the Chancellor, recommending that DES officials lift their objection to arbitration of teachers' pay, when the Burnham Management Committee meet tomorrow. Treasury officials are strongly recommending the Chancellor to reply in the course of this afternoon saying that they should not be permitted to do this; I hope the Prime Minister will agree that you should reinforce this message from the Treasury, perhaps by a Private Secretary telephone call first thing tomorrow morning.

The Prime Minister will recall that the present position is that the teachers have been offered 3.4%; that unilateral access to arbitration (in England and Wales) is no longer available; and that the officials on the Burnham Management Committee hold the balance between the ACC and the AMA in permitting arbitration. There are, in my view, three very strong reasons for opposing Sir Keith Joseph's suggestion:

(i) Mr. Carlisle went out of his way to remove unilateral access to arbitration, precisely to avoid our getting into the situation that Sir Keith Joseph discusses at the end of page 2 of his letter - where an arbitrarial award is higher than we would wish, but not so high that we can ask the House of Commons to set it aside on the grounds that national ecomomic circumstances so require;

(ii) As the Prime Minister knows, on management and recruitment and retention grounds, there is probably no public service group less deserving of a pay increase this round than the teachers. Although there are shortages of particular teaching skills, which it seems virtually impossible to counter by disaggregating the pay offer, in general we cannot reduce the number of our teachers as fast as we need to to match the declining school population;

/ (iii)

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(iii) and most important of all, we must not move an inch from the principle that the 6.4% offer to the nurses is a wholly exceptional response to the particular circumstances of that profession. As soon as that is allowed to be seen as some form of new public service norm, the negotiating position in the health service will become impossible. We will have no chance of settling the ancillaries at 4%, and the nurses themselves will expect even more.

The immediate issue presented by Sir Keith's letter is access to arbitration, and if the Prime Minister agrees that can be taken care of by ensuring that officials at tomorrow's meeting continue to hold out against it. But there are of course consequences of that for the handling of teachers' pay negotiations over the next few weeks, and they can be dealt with in the Official Group on Pay, and E(PSP). I do not think the Prime Minister needs to hold a meeting on this at this stage.

John Vereker

17 March 1982

BF

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DEPARTMENT OF EDUCATION AND SCIENCE

ELIZABETH HOUSE, YORK ROAD, LONDON SE1 7PH

TELEPHONE 01-928 9222

FROM THE SECRETARY OF STATE

The Rt Hon Sir Geoffrey Howe QC MP
Chancellor of the Exchequer
HM Treasury
Parliament Street
LONDON SW1P 3AG

16 March 1982

Dear Geoffrey,

TEACHERS' PAY

Thank you for your letter of 8 March. As I explained in my letter of 5 March the Burnham Primary and Secondary Committee ended its meeting on 3 March without agreement on what should happen next. The management panel wanted more negotiations, but refused to improve its 3.4% offer without some move from the teachers. The teachers would not agree to further negotiations without an indication from the management side that an improved offer would be put forward, and wanted arbitration, which the management side rejected.

Since that meeting three unions, NUT, AMMA and NAS/UWT, have embarked on industrial action aimed at persuading the management panel to agree to arbitration. The industrial action is taking the form of withdrawal from supervision duties during the mid-day break, and withdrawal from activities outside classroom hours including meetings with parents, extra curricular activities, marking and so on. It is too early to tell how severe this action may become, but it could be very troublesome and disruptive.

The threat of such action was enough to cause the AMA and the ILEA and 15-20 individual county authorities to issue statements indicating in varying degrees support for or willingness to consider arbitration, which has been sufficient to cause the NUT and AMMA, but not NAS/UWT, to call off the threatened industrial action in their areas. The ACC has been angered by this action, and has reaffirmed its view that there should be further negotiations and that the time has not yet come to consider arbitration. At least one Labour controlled county (Lancashire) has publicly supported this line.

The management panel of the Burnham Primary and Secondary Committee is to meet on 18 March. It is not easy to see what the outcome will

be. The AMA are likely to argue against further negotiations, and for immediate recourse to arbitration, on the grounds that arbitration will be necessary in the end, and that any improved offer will simply raise the base before arbitration and be likely to result in a higher arbitral award. The ACC are likely to argue for holding firm against arbitration at this stage, pressing the teachers to shift from their claim in some way which would enable the management to make an improved offer. The weakness of this argument is that the teachers have already split the employers; they will hope to persuade more counties to favour arbitration; and they will not readily shift from their claim without the clear prospect of an offer they will feel able to accept. It is difficult to put a figure on this, but it seems unlikely that a figure less than the 6.4% which we are prepared to finance for the nurses would persuade the teachers to abandon their pressure for arbitration. While it is not at all clear that the employers as a whole would agree to an offer of that order, my understanding is that some though not all of the individual local authorities have budgeted to cover that kind of figure, and that the teachers know this to be the case. Moreover it must be possible that arbitration would result in an award of at least that order. The ACC will not want to make an open offer at this level, but it is possible they would be ready to do so if they were confident the teachers would accept, rather than be seen to follow the AMA in agreeing to arbitration.

I cannot prevent arbitration if both ACC and AMA want it, though my representatives could argue and vote against: the "veto" does not apply here. As you will know, the voting strength in the Primary and Secondary Committee, which depends on attendance on the local authority side, is ACC 13, AMA 10 and WJEC 2, with a weighted vote of 15 for my representatives. Strictly the association representatives are individuals, though those present may in practice vote as blocks. We have agreed to arbitration for the civil service, and I understand it has been agreed that the Scottish school teachers' claim should go to arbitration. In these circumstances I do not think my representatives should now argue against arbitration, but at the same time I do not think they should vote against the ACC and with the AMA in favour of arbitration. If the ACC are solid and all present, they can out-vote the AMA, even if WJEC support AMA. But unless an acceptable settlement is reached, it appears that the ACC must accept arbitration eventually.

The ACC want a negotiated settlement without recourse to arbitration if they can get one, but the indications are that they will not wish to make an offer above the 3.4% already offered unless they are confident of reaching a settlement. If no settlement is reached, a higher offer would merely raise the base for arbitration. This is the argument my representatives will support, and the AMA may well take the same view.

I believe that both the ACC and the AMA consider that a negotiated settlement will only be possible at a level above 4%, and I share that view. But an arbitral award would almost certainly be above 4%, and we can only set an arbitral award aside if "each House of

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Parliament resolves that national economic circumstances require" that effect should not be given to the arbitrators' recommendations. This is different from the civil service position, where we have reserved the right to ask the House of Commons to set aside an arbitration award on grounds of national policy. With the very specific wording of the Remuneration of Teachers Act 1965 it must be doubtful if we could ask both Houses of Parliament to set aside an arbitration award for teachers if that did not significantly exceed the level we have agreed to finance for the nurses. There is of course no question of our making any extra cash available to the local authorities on this account above the 4% already announced, and my representatives will certainly make that clear.

The judgment needed at the end of the day for me as for the employers, is which of the two alternatives, a negotiated settlement or an arbitral award, will be higher. While my representatives can, under the voluntary Concordat, veto an offer on grounds of total cost - no offer will be made "if the Secretary of State objects to the total cost involved; it being understood, however, that the Secretary of State will not determine any limit of total cost at the outset of negotiations" - there is no point in their doing so if use of the veto results in an arbitral award as high or higher than the vetoed offer. With these considerations in mind, while my representatives will argue against any offer above 3.4% unless there are good grounds for believing such an offer will bring a settlement, I do not propose they should veto offers up to 6½% if there is confidence that such an offer will be accepted.

The employers may not be willing to make an offer that high. There are indications however that some within the ACC believe a settlement could be reached at or even slightly below that level, for FE teachers as well as school teachers, and that if so this would be better than going to arbitration. I do not believe we should use the veto to stop them in either the P&S or the FE Committee.

Copies of this letter go to the Prime Minister, the Secretaries of State for Scotland, Wales and Northern Ireland, members of E(PSP) and Sir Robert Armstrong.

Yours ever,

Keith

CONFIDENTIAL

PA

Education

MR. SCHOLAR

c.c. Mr. Hoskyns
Mr. Ingham

Teachers' Pay

Today's FT reports that the teachers employers have split on whether this year's pay award should go to arbitration; that a crucial balance on the management side is held by DES officials; and that they will today tell the management panel of their decision. Meanwhile the proposed industrial action is suspended. I have discussed the position with the Deputy Secretary responsible in DES.

The story is broadly accurate, except that DES officials have no intention of taking a position on the arbitration issue until Sir Keith Joseph has consulted his colleagues, which he will do shortly.

The Prime Minister will recall that Sir Keith Joseph reported, in his letter of 5 March to the Chancellor, that the management side stuck to the 3.4% offer (to our considerable surprise) in the Burnahm Committee on 4 March; and that management refused arbitration. At that stage, the AMA and the ACC were united in their opposition to arbitration. But since then, in the face of the threat of industrial action, the AMA have changed tack; and have asked for the arbitration issue to be discussed in the management side at a special meeting next week. Sir Keith Joseph is likely to recommend to his colleagues that we continue to support the ACC in opposing arbitration, and that would of course be entirely consistent with the position Ministers have taken on not allowing the teachers to be offered more than 4% unless a settlement not greater than 5% is certain. We cannot, of course, be certain of being able to hold the position, because the ACC itself may split on the issue.

Refusing teachers access to arbitration in the face of a 3.4% pay offer may have some presentational difficulties, given our

CONFIDENTIAL

/ agreement

agreement to arbitration for the civil servants, and Mr. Fowler's success in increasing the cash limit for NHS pay. But there are some excellent counter-arguments summarised in the Chancellor's letter of 8 March to Sir Keith Joseph, on which Mr. Ingham may wish to draw in his discussions with the lobby.

10 March, 1982.

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Prime Minister (2) cc JV

Education

MCS 8/3

Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

8 March 1982

The Rt. Hon. Sir Keith Joseph, Bt., MP.,
Secretary of State for Education and Science

Dear Keith

TEACHERS PAY

Thank you for your letter of 5 March. I am grateful to you for keeping me in touch with developments.

I am sure that you will be representing the Government's views forcefully to the local authority employers when you see them. It seems to me that our position is perfectly reasonable, and that we should not allow the local authorities to make too much of what is essentially a concession for a single, albeit large, NHS group. No doubt you will be making the following points.

(a) There is substantial over-supply of teachers. In many respects, a nil offer would be justified - just as the Civil Service offer includes nil increases for recruitment grades. By contrast, the NHS is an expanding service. It is necessary to look at the underlying market position, and not at some illusory "going rate".

(b) The local authorities conceded 6.9 per cent to their manual workers (and the full year cost will be still higher); it is not unreasonable to expect them to offer correspondingly less to other groups.

(c) The Government's offer to the nurses will be less than the settlement with the local authority manuals and most other NHS groups will be given offers consistent with the 4 per cent pay factor. In particular, there is no current intention of offering NHS Administration and Clerical staff - who are at least as close a parallel as the nurses - more than 4 per cent.

(d) The offer to the Civil Service is worth almost exactly 4 per cent.

/(e) In 1981,

(e) In 1981, the teachers got 7½ per cent and the nurses (like other NHS groups) 6 per cent. It should not be impossible for the local authorities to defend a differential in the reverse sense this time.

I am sending copies of this letter to the other recipients of yours.

GEOFFREY HOWE

CONFIDENTIAL

(2)

Education

cc Mr. Hoskyns
Mr. Ingham

Prime Minister

Keith Joseph's letter attached.

MLS 5/3

MR. SCHOLAR

Industrial action by the teachers

As reported on the news tapes this afternoon, one of the teachers' unions - the National Association of Schoolmasters - has voted to instruct its 124,000 members not to supervise lunch-time breaks as from 11 March. I have had a word with the DES about this.

We do not yet know the extent to which this call for industrial action will be supported by the membership; nor, more importantly, whether the National Union of Teachers will follow suit. But, as I understand Sir Keith Joseph is reporting in a letter to his colleagues later today, the latest round of Burnham negotiations broke up without setting a date for further discussions, and there is therefore unlikely to be an opportunity for the employers to increase their 3.4% offer before the industrial action begins. And Monday's announcement of the increased NHS cash limits will aggravate the teachers' view of their pay offer.

As the Prime Minister will know, lunch-time supervision is a voluntary activity, and cannot be imposed upon teachers; and they lose no money by refusing it. Although we have not had this form of industrial action by teachers for several years, experience shows that it is very disruptive. In the past it has led to school closures, because Headmasters (who are obliged to stay at their posts) may find themselves unable to cope on their own with up to 1,200 students, and ask the local authority to agree to close the school down.

You may feel that Sir Keith Joseph should be invited to report to his colleagues on the prospects, and any ways out, when the picture is clearer early next week.

John Vereker

5 March 1982

CONFIDENTIAL

nr

CONFIDENTIAL

cf. FV.

DEPARTMENT OF EDUCATION AND SCIENCE

ELIZABETH HOUSE, YORK ROAD, LONDON SE1 7PH

TELEPHONE 01-928 9222

FROM THE SECRETARY OF STATE

The Rt Hon Sir Geoffrey Howe QC MP
Chancellor of the Exchequer
Treasury
Parliament Street
LONDON SW1P 3AG

5 March 1982

Dear Geoffrey.

TEACHERS' PAY

The Burnham (Primary and Secondary) Committee reached deadlock yesterday on the schoolteachers' 1982 pay claim. The management panel were not prepared to increase the offer of 3.4% made at the previous meeting, and the teachers stuck to their claim for an increase in line with inflation. Each side made it clear that it was not ready to be the first to move. The teachers asked for arbitration. The management panel would not agree to that, taking the view that further discussions might yet lead to a settlement. They suggested a further meeting on 2 April, by which date both the ACC and AMA Policy Committees would have had meetings at which the employers' position could be reviewed. The teachers responded that a month's postponement was unacceptable and pressed for earlier action by the employers. The management panel then offered a meeting on 15 March. The teachers were not ready to agree to that unless the management panel undertook to enter into "real negotiations" then; in effect asking for an assurance that there would then be an improved offer. The management panel refused to give any such undertaking and the meeting adjourned with no agreed date for the resumption of negotiations. It was, however, agreed earlier in the day that the April 1981 London Weighting claim should go to arbitration, as foreshadowed in my letter to you on 1 March. The agreed terms are short and strictly neutral: they refer to the amounts of the claim and the offer, leavin both sides free to deploy their arguments on indexation and ability to pay in their presentations to the arbitrators.

Developments on the NHS front must make the Burnham situation more difficult. They will certainly increase teacher resistance to any offer we would regard as satisfactory, and may also affect employer attitudes. I am therefore seeking to meet the local authority Leaders of the Management Panels of both Burnham Committees on Monday afternoon to explain the position. I will make it clear that

CONFIDENTIAL

we judge it right this year to finance settlements above 4% for the nurses and some other NHS groups - albeit part of the cost is to come from the NHS itself - but that we are not ready do so in respect of teachers. I have no doubt that the Leaders will tell me that the NHS position will make it more difficult to achieve a satisfactory outcome on teachers' pay. They may say, in line with the line their colleagues took when they met Michael Heseltine, you and me on 23 October last, that if local authorities are expected to hold the line on teachers' pay they are entitled to expect a similar position to be adopted towards other pay groups where the Government has control.

We now have impasses in both Burnham Committees - in the Primary and Secondary Committee over the 1982 claim, and in the Further Education Committee over the appointment of the Association of Polytechnic Teachers to the Teachers' Panel. Neither Committee has a date for resumed discussion. It is not clear what the next steps will be, but I will keep you and ~~your~~ colleagues informed.

I am copying this letter to the Prime Minister, E(PSP) colleagues and Sir Robert Armstrong.

Yours,

Keith

Education

CONFIDENTIAL

London weighting - A

MR. SCHOLAR

c.c. Mr. Hoskyns

TEACHERS' PAY

There are two proposals in Sir Keith Joseph's letter to the Chancellor of 1 March. First, not to oppose an increase in the offer to teachers from 3½ to 4 per cent. Second, not to oppose reference to arbitration of the London weighting dispute.

The Prime Minister has already agreed that a 4 per cent offer may be made, with a move to 5 per cent only if a settlement is certain. With the teachers, as with the NHS, the Government's best interest now lies with a settlement around the 4 per cent level before arbitration of the Civil Service dispute. That way, there will be some public service settlements to which we can point before the arbitrator; if they all hang around waiting for the arbitrator, he is more likely to be influenced by the going rate in the economy as a whole, which is probably around 7 per cent. So I am sure that our present instructions should stand.

As to London weighting, I have drawn attention before to the link between the way in which we deal with armed forces' London weighting and the teachers dispute. If the teachers go to arbitration, there is a reasonable chance of their being held to single figures - as were the civil servants - but that chance would be considerably strengthened if we hold the armed forces to 7 per cent, as I suggested in my note before the weekend.

2 March 1982

S

CONFIDENTIAL

C & J
Education
(2)
Prime Minister
MCS 1/3

DEPARTMENT OF EDUCATION AND SCIENCE

ELIZABETH HOUSE, YORK ROAD, LONDON SE1 7PH

TELEPHONE 01-928 9222

FROM THE SECRETARY OF STATE

The Rt Hon Sir Geoffrey Howe QC MP
Treasury
Parliament Street
LONDON SW1P 3AG

1 March 1982

Dear Geoffrey.

BURNHAM NEGOTIATIONS 1982

My minute of ~~25~~ TPM February to the Prime Minister reported on the state of play and promised a note on tactics ahead of the 3rd March meeting of the Primary and Secondary Committee.

In the main pay negotiations for school teachers there may be a wish by the employers to move to a 4% offer. If so, I do not consider that Government could reasonably oppose, given our 4% offer to the Civil Service and the 4% offer now made to Scottish school teachers. My representatives in Burnham will however continue strongly to oppose any offer above 4% unless it becomes clear that a quick settlement could be reached at 5% or less. I do not myself expect an early settlement -most observers seem to think that the teachers will play a waiting game, waiting in particular on the Civil Service negotiations.

The issue of greatest immediate difficulty is London Weighting where up to now my representatives have been opposing any offer above 7½% or a reference to arbitration - but would not have used the veto. The settlement date was 1 April 1981, and the London employers are increasingly concerned to secure an early settlement. They fear that otherwise back payments for over a year may have to be attributed to 1982-83, exposing some authorities to risk of penalty under the GRE arrangements. But at the same time they do seem determined to break the link with the DE London indices, and in the long run that may be more important than the absolute level of the settlement. Informal contacts recently with the parties suggest that, if the employers do decide to try for a settlement on 3 March, one of three courses may be favoured:

a. an increase on the 7½% offer already made and rejected;

b. an end-loaded settlement which would pay increases in line with the indices but from a date later than 1 April 1981, so as to keep the cost to 7½% in this financial year - but with a fully indexed increase in the baseline for 1982-83;

c. arbitration.

(a) seems unpromising as a means of obtaining a settlement unless the increase were so substantial as virtually to concede the indexed claim; that would damage prospects in other negotiations and leave indexation to stand as a hostage in future negotiations. I reject (b). That would buy a settlement now at a future cost and would additionally leave the principle of indexation unchallenged for the future. Accordingly, my officials will continue, as before, to oppose both of those courses within the management panel if they are raised.

On (c), the position is that neither side has so far requested arbitration - the teachers fear they would effectively lose their principle of indexation for the future if the arbitration did not go their way, and in the management panel my representatives and the ACC representatives have objected on cost grounds. It now appears that the ACC may join the AMA in wishing to agree to arbitration if terms of reference could be agreed which give due prominence to the 7½% offer, to ability to pay arguments and to the case for treating London teachers no better and no worse than other teachers in terms of their reduction in real income. If the employers should wish to go to arbitration on terms of this kind I do not propose to instruct my representatives to use my block vote in an attempt to stop them. I come to that conclusion because it may be that arbitration is the least unsatisfactory option, and also because it seems to me imprudent to put my powers within the management panel at risk for this relatively minor matter. If the voluntary concordat on which those powers rest should collapse we would suffer a major reduction in influence over teachers' pay at a critical time.

I am copying this letter to the Prime Minister, E(PSP) colleagues and Sir Robert Armstrong.

Yours,

Ken

Prime Minister

PRIME MINISTER

BURNHAM NEGOTIATIONS 1982

1. The Burnham Primary and Secondary Committee met on 16 February to consider the teachers' claim for a pay increase in line with inflation. In advance of that meeting the management panel had decided that their response should be a formal offer less than 4%, and on the day 3.4% on the pay bill was offered. The management panel explained that they expected local authorities to employ more teachers than the number assumed in the Government's expenditure plans, and 3.4% was the most that could be offered without detriment to other parts of the education service. The teachers rejected the offer. The Committee will meet again on 3 March.

2. Also on the agenda was the claim for an increase in London Weighting (for school and for further education teachers) with effect from 1 April 1981 - that is, the last pay round, not the current one. The management side repeated its offer of 7½% on the pay bill, to be divided between Inner and Outer London, with no increase for fringe areas. This is in line with the pay settlement last year. The teachers continued to refuse the offer and no progress was made. The matter will be considered again on 3 March.

3. The Burnham Further Education Committee met on 22 February. Much time was taken up by union posturing over my addition of the Association of Polytechnic Teachers to the teachers' panel. Indeed, the other teacher unions had withdrawn when the management's formal offer of 2½% on the pay bill was made, in response to the teachers' claim for 12% plus £250 pa. Major considerations behind this offer are the prospects for AFE teachers and the effects of the expenditure pooling arrangements on authorities in relation to our expenditure plans. The offer was described as unacceptable by the one member of the teachers panel present - the APT representative. No date has been fixed for the next meeting.

4. My representatives on the Committees believe that the employers are strongly influenced by the new financial disciplines applying to local authority expenditure, in particular the penalty clauses now built into the block grant arrangements. The employers seemed determined to detach the question of teachers' pay from the 6.9% settlement for the local authority manuals, and to make only small increases on their offers as negotiations proceed. It is not yet clear whether they will wish to increase their offers marginally at the next meetings: our offer to the Civil Service may strengthen their resolve not to go above 4% unless there is a genuine prospect of an early, low settlement, but that offer to the Civil Service must have made it the more difficult for them to stick below 4%. I should also say that the employers would not see the eventual teachers' settlements following the distribution pattern of our offer to the Civil Service. The prospects for London Weighting are uncertain: a great deal depends on what happens in other parallel negotiations. At present a majority among the employers seem determined to break the tradition of indexation on which the teachers' London Weighting claim is based. In the negotiations generally, the teachers seem to be unwilling to try to force the pace, probably preferring to wait to see what happens in other negotiations. The Civil Service result in particular (but also the NHS result) will be seen by them as providing signals and comparators. For that reason, and so as to reinforce the resolution of local authority employers in the Burnham negotiations, I see it as particularly important that ground should not be conceded to the Civil Service.

5. I shall be writing to colleagues again before the 3 March meeting. At that stage I will report on prospects in the light of any informal developments that may have taken place in the meantime and on my tactics for the next round of negotiations.

6. I am copying this minute to the Chancellor, E(PSP) colleagues and Sir Robert Armstrong.

KJ

Department of Education and Science 25 February 1982

CONFIDENTIAL

Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

17 February 1982

The Rt. Hon. George Younger, M.P.,
Secretary of State for Scotland

Prime Minister.

Dear George

TEACHERS' PAY: SCOTLAND

Thank you for your letter of 11 February.

You will since have seen my reply of 12 February to Keith Joseph's letter of 10 February. I recognise that what I said there about the veto is not applicable to Scotland, where no veto exists. But otherwise the points which I would make are essentially the same as those which I made in that letter.

In particular, I think that your representatives on the Management Sides should seek to dispel any assumption that increases even as high as 4 per cent are necessary. With a substantial excess supply of teachers, there are no obvious market grounds why the generality of teachers should receive any pay increase at all. Unless these points are made, I think there is a danger that 4 per cent will be taken for granted, as merely a starting point for negotiation.

I am copying this letter to the Prime Minister, members of E(PSP), to the Secretary of State for Wales, and to Sir Robert Armstrong.

Yours

GEOFFREY HOWE

Prime Minister

(2)

AD

JV

Consistent with the line you have taken.

Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

MCS 12/2

Education: Teachers Pay

12 February 1982

The Rt. Hon. Sir Keith Joseph, Bt, MP
Secretary of State for Education and Science

Dear Keith

TEACHERS' PAY

Thank you for your letter of 10 February about the next steps on the pay of school and university teachers. We spoke about this the other day.

Along with the tactical considerations which affect the handling of these negotiations, I think we need to keep clearly in view the real merits of the case on teachers' pay. There is a substantial excess supply of teachers; and on market grounds there is no obvious reason why the generality of teachers should receive any pay increase at all. I think that your representatives on the management panels should not hesitate to point this out at the meetings tomorrow, and to emphasise that there should be no presumption that an increase as high as 4 per cent is necessary. It seems to me important to get this across to the employers in order to set the right tone for their approach to the negotiations. They should not treat 4 per cent as a floor from which upward bidding takes place.

Subject to their arguing along these lines, I agree that your representatives should not veto an offer of up to 4 per cent. But I think that we need to be very careful about allowing an offer above that level. If there were concrete evidence of willingness by the unions to settle at up to 5 per cent, I agree that a quick settlement at this level would be worth having. But your letter suggests that this is most unlikely, if only because the teachers will want to see what the Civil Service and the nurses are likely to get. I think we must if necessary make clear that without a sure prospect of a quick

/settlement

settlement we will veto offers higher than 4 per cent. The attitude of the ACC as you describe it is welcome in this respect; but we must be prepared to stiffen their resolve if necessary.

In any case we should make it clear that we will provide no funds beyond what is implied by the 4 per cent factor. Even the excess cost of a settlement up to 5 per cent would need to be absorbed within existing provision.

I am copying this letter to the Prime Minister, Members of E(PSP), the Secretary of State for Scotland, the Secretary of State for Wales, and Sir Robert Armstrong.

GEOFFREY HOWE

CONFIDENTIAL

Prime Minister (2) cc JV

MCS 12/2

SCOTTISH OFFICE
WHITEHALL, LONDON SW1A 2AU

Education: Teachers' Pay

The Rt Hon Sir Geoffrey Howe QC MP
Chancellor of the Exchequer
HM Treasury
Parliament Street
LONDON
SW1P 3HE

11 February 1982

I have seen Keith Joseph's letter to you of 10 February about the action which he proposes to take in relation to the discussion in Burnham of the teachers' claim for a pay increase from 1 April 1982. It may be helpful if, in commenting on his letter, I indicate at the same time the line which I envisage in relation to the corresponding negotiations in Scotland.

Under the legislation which we enacted last session there are now two new negotiating committees in Scotland - the Scottish Joint Negotiating Committees for, respectively, Teaching Staff in School Education and in Further Education (SJNC(SE) and SJNC(FE)) - each of which deals with both pay and conditions of service. In both the SJNC(SE) and the SJNC(FE) claims have been lodged for increases from April 1982 "for the amount required to maintain and protect the living standards of Scottish teachers". The Management Sides have agreed to respond to the SJNC(SE) claim on 18 February and to the SJNC(FE) claim on 3 March; and in the meantime they have been consulting their constituent authorities through the so-called "sounding-board" procedure. Although I have not yet seen the detailed responses, I understand that the various authorities have stressed the constraints implicit in the Rate Support Grant (Scotland) Order 1982 (ie, not only the 4% allowance for increases in earnings, but also the fact that the grant will represent a smaller percentage of relevant expenditure) and expressed the view that the settlement should be kept as close as possible to 4%. In particular, I understand that there is no disposition at all to regard the 6.9% settlement for manual workers as a precedent.

Against that background I see no difficulty about the line which Keith Joseph proposes to instruct his officials to take in Burnham, and I would propose that my representatives on the Management Sides of the SJNC(SE) and SJNC(FE) should proceed similarly. You will of course remember that, under the new legislation, I have no power to veto teachers' pay settlements in Scotland; as I have indicated, however, I think it unlikely that the Management Side will wish to make an offer, certainly at the meeting of the SJNC(SE) on 18 February,

which we would regard as unacceptable. Moreover, my officials will be briefed to resist any early recourse to arbitration, although I certainly do not expect that the Management Side would contemplate proposing such action at this stage.

I am sending copies of this letter to the Prime Minister, Keith Joseph, other members of E(PSP) and the Secretary of State for Wales.

GEORGE YOUNGER

CONFIDENTIAL

Original filed on:-

Gen PM: Public Sector Pay: Pt 6.

PS TMP
PS IV Education
C CDL
CS, HMT
HMT
LPO
DOE
DHSS
D/M
SO.
WO.

10 DOWNING STREET

From the Private Secretary

11 February 1982

Dear Imogen,

The Prime Minister has seen a copy of your Secretary of State's letter of 10 February to the Chancellor of the Exchequer about teachers' pay.

The Prime Minister hopes that officials will stick to 4% and aim to settle at it; and that they should move to 5% only if they have to and if they are absolutely sure that to do so will achieve a settlement. She suggests, too, that they should air the possibility of a disaggregated offer, in which groups of teachers in shorter supply than other groups are offered somewhat more.

I am sending copies of this letter to the Private Secretaries to Members of E(PSP) and the Secretaries of State for Scotland and Wales.

Yours sincerely,

Michael Scholar

Mrs. Imogen Wilde,
Department of Education and Science.

CONFIDENTIAL

Original filed on:-
Econ Pol: Public Sector Pay Policy: Pt6.

VC AD
JV

DEPARTMENT OF EDUCATION AND SCIENCE

ELIZABETH HOUSE, YORK ROAD, LONDON SE1 7PH

TELEPHONE 01-928 9222

FROM THE SECRETARY OF STATE

10 February 1982

The Rt Hon Sir Geoffrey Howe QC MP
Chancellor of the Exchequer
HM Treasury
Parliament Street
London SW1P 3HE

Dear Geoffrey

It was agreed in E(PSP) on 27 January that I should report to colleagues on the outcome of my discussion with leaders of the Burnham Management Panels, and the line my officials will take within the Management Panels, before the first main Burnham negotiating meetings of this pay round take place. Colleagues will recall that the teachers' unions are claiming pay rises broadly in line with increases in the cost of living. The Management Panels will be responding, and making initial offers, on 16 February (school teachers) and 22 February (further education teachers). The Management Panels are meeting separately on 12 February to consider what their line should be.

I discussed the position this morning with the leaders of the two panels - both from the Association of County Councils. They believe, and I agree with their judgement, that an acceptable settlement (ie below or very close to 4%) is unlikely to be reached on either 16 or 22 February, if only because at that stage the teachers will have the local authority manuals 6.9% settlement in mind, and be unwilling to settle for much less at least before they see what the Civil Service and the nurses get. They are likely at some stage during the 16 or 22 February meetings to want to make an offer worth 4% (possibly as a combination of an across-the-board sum and a percentage increase), because they believe public opinion would favour the teachers if they do not. But I judge that the Association of County Councils will not at this stage suggest, or agree to, any offer being made above 4% unless they are confident that an offer slightly above this level would be accepted, and that even then they would not agree to an offer more than 5%. Equally they will not accept any requests from the teachers to go to arbitration at this stage. Their firm view is that they do not have the money. The position of the Association of Metropolitan Authorities is less clear, although the indications are that they would not wish, at least at this stage, to go much further. In later stages, much may depend on progress with the Civil Service negotiations.

My aim is to obtain the lowest possible settlement. This aim must take precedence over questions of how details of a settlement may affect the pay of different groups of teachers. While I hope for a settlement costing no more than 4%, I nevertheless believe that if a settlement of 5% could be achieved on either 16 or 22 February we should agree to it. Not to do so might cost us more in the end. My officials will therefore argue and vote on 12 February against any offer being made on either 16 or 22 February above 4% unless the Management Panel has good reason to suppose that an offer slightly above 4% would be accepted - though I think this is a very unlikely eventuality. Even in this case they will not agree to an offer above 5%. On this basis the question of using "the veto" will not arise, because there will be no disposition among the representatives of the Association of County Councils to make an offer we could not accept. Similarly my officials will oppose any reference to arbitration at this stage.

The prospects are therefore that no settlement will be reached at these February meetings, and that further meetings will be necessary in due course, possibly after offers have been made to the Civil Servants and the nurses whether or not they have been accepted.

Copies of this letter go to the Prime Minister, members of E(PSP), the Secretary of State for Scotland and the Secretary of State for Wales.

Yours ever

Ken

Prime Minister

(1)

original filed on:- Econ Pol: Public Sector Pay Policy: Pt 6

Agree to X overleaf? (but how can officials be sure that a 5% offer will gain acceptance?)
MCS 10/2

MR SCHOLAR

cc:- Mr Hoskyns

Yes mt

TEACHERS' PAY

(attached) MCS

The Prime Minister ought to see Sir Keith Joseph's letter of today's date to the Chancellor about the handling of the forthcoming teachers' pay negotiations. It raises the difficult question of what authority should be given to the DES officials who sit on the Burnham Management Panels.

The Prime Minister will recall that, at her meeting of Ministers on 7 January, there was some confusion about the extent to which the Government is able to control the offer made by local authority employers. The position is that the Government has, by informal agreement with the employers, a veto over the total cost of any offer; and it may, if both Houses of Parliament resolve that national economic circumstances so require, override an arbitration award. Mr Carlisle did, of course, withdraw the right of unilateral access to arbitration, bu the employers could nonetheless agree to it.

Although Sir Keith says that his aim is to obtain the lowest possibl settlement, he defines this as "no more than 4%", and indicates that he would in fact be content to settle at 5%. This contrasts strongly with the general feeling in the Prime Minister's meeting that of all the public service groups, the teachers had the weakest claim for 4%. If the doctrine that "some will get more, and some will get less", means anything, it ought to mean that teachers get less - because we have far too many of them. And, given the constraints that have been placed on Mr Fowler in his desire to offer some Health Service groups more than 4%, it would look very odd if we were to agree to 5% for the teachers: indeed, it would create significant difficulties for the negotiations with the Civil Servants and NHS.

But intervention in these circumstances, certainly to the extent of arguing for an offer much lower than 4%, would involve the Government in taking a high profile. Officials would have to use the veto; the claim might go to arbitration; and public support for the teachers - of who there are nearly ½ million - would probably grow. Both the employers and the unions know that very few settlements this pay round

have been achieved below 5%.

I conclude that an opening of the negotiations at 4%, and an eventual settlement at 5%, is just about acceptable. What we have to avoid is allowing the negotiations to start at 5% and drift up further. Our general experience is that negotiators go to the limit of their discretion far too early in negotiations. The Prime Minister may feel that it would be wise to tell Sir Keith that his officials should stick to 4%, and hope to settle at it; they should move to 5% only if they have to, and if they are absolutely sure that to do so will achieve a settlement. They should also air the possibility of a disaggregated offer, in which groups of teachers in shorter supply than other groups are offered somewhat more.

10 February, 1982

File TP 3
Education

SUBJECT

10 DOWNING STREET

cc. Master set.
✓ Nat Health: Nurses Pay. Oct 79
✓ Local Govt: Central/Local Relations PCS

From the Private Secretary

7 January 1982

Dear John,

The Prime Minister held a meeting this morning on public service pay. The Chancellor of the Exchequer, the Secretaries of State for Education, Environment and Employment, the Chancellor of the Duchy of Lancaster, the Minister of State for the Armed Services (Mr. Blaker) and the Minister of State at the Department of Health and Social Security (Dr. Vaughan) were present. On Civil Service pay, the conclusions of the meeting are recorded separately.

On teachers pay, the Secretary of State for Education and Science said that the danger here was that the negotiators would be too much influenced by the 6.9% offer for local authority manual workers. The unions would certainly be watching the progress of the Civil Service pay claim closely, and if the latter went to arbitration, it seemed very likely that the teachers would similarly seek arbitration. His advice was that although the union's unilateral right to arbitration had now gone, the management side could agree to arbitration without Government consent. It would be impossible for the Government to exercise a veto on the outcome of arbitration. So far as higher education was concerned, the Vice-Chancellors had indicated that they would like to achieve a settlement below 4%, on the basis that they could use the difference between the settlement level and 4% to finance their redundancy and slimming costs. The Chancellor of the Exchequer was asked to consider urgently whether this might be an acceptable way of proceeding.

On local authority pay, the Secretary of State for the Environment expressed the hope that the approach proposed for the Civil Service might be extended to the AP and TC group of white collar workers whose claim was expected towards the end of this month.

On nurses pay, a paper was being prepared for E(PSP) and there would also be a further discussion in the Nurses and Midwives Whitley Council early next month, as envisaged in the Prime Minister's meeting with the Staff Side on 18 December. Given the substantial recent increases in the nurses and midwives pay bill, it was agreed that urgent consideration should be given to ensuring that there was no further increase in their numbers.

/The Chancellor

SECRET

The Chancellor of the Exchequer was asked to consider the practicability of earmarking part of the contingency reserve for capital spending late in the financial year, so as to allow the argument to be advanced in pay discussions that a moderate settlement would provide room in the current financial year for procurement of, for example, additional medical equipment, school books, or steel pipe for improved sewerage and water services. Such an approach might also be extended to the local authority field.

Mr. Blaker outlined the problem of fleet auxiliary officers. It was agreed that the Chancellor would make early proposals about the treatment of these people, together with other single outside analogue grades.

I am copying this letter to Imogen Wilde (Department of Education and Science), David Edmonds (Department of the Environment), Barnaby Shaw (Department of Employment), Jim Buckley (Office of the Chancellor of the Duchy of Lancaster), John Halliday (Home Office), Peter Craine (Ministry of Defence), Craig Muir (Department of Health and Social Security) and David Wright (Cabinet Office).

Yours sincerely,

Michael Scholar

John Kerr, Esq.,
HM Treasury.

Education

CHANCELLOR OF THE DUCHY OF LANCASTER
Civil Service Department
Whitehall London SW1A 2AZ
01-273 4400

17 September 1981

The Rt Hon
Paul Channon MP
Minister for the Arts
Department of Education and Science
Elizabeth House
York Road
LONDON
SE1 7PH

Dear Paul,

TEACHERS' PAY: 1981 LONDON WEIGHTING NEGOTIATIONS

Thank you for your letter of 16 September. I agree with the course which you propose to instruct your officials to take in Burnham on this. But I hope that they will argue very strongly indeed against accepting arbitration this year on the level of London Weighting for teachers. As you know, we are holding the Civil Service down to a 7% increase in London Weighting and are refusing them arbitration. It would obviously cause difficulty if another public service group get the full increase indicated by the Department of Employment indices and there is clearly some risk that this would be the outcome of an arbitration case.

I am copying this letter to the recipients of yours.

Yours ever

Parot

BARONESS YOUNG

CONFIDENTIAL

nr

CONFIDENTIAL

Education

c Vereker
Duguid
Walker

Department of Education and Science

Office of Arts and Libraries
From the Minister for the Arts

Elizabeth House York Road
London SE1 7PH

Telegrams Aristides London SE1
Tel: 01-928 9222

The Lady Young
Chancellor of the Duchy of Lancaster
Whitehall
LONDON SW1A 2AT

16 September 1981

Dear Janet,

TR

TEACHERS' PAY: 1981 LONDON WEIGHTING NEGOTIATIONS

In Keith Joseph's absence abroad for a few days I am writing to you about one outstanding issue, London Weighting, which remains to be settled by the Burnham Committee this year.

– will respond if required

Colleagues agreed in response to Mark Carlisle's letter of 20 July that the Secretary of State for Education's representatives in Burnham should argue strongly against, and if necessary vote against, any offer by the management side which might go beyond the 7½% national settlement for teachers' salaries, but that if the ACC and the AMA were persuaded that they should offer more, the representatives should not veto any higher offer. The main reason was the damage which use of the veto on this relatively small part of teachers' pay could do in the longer term - possibly leading to repudiation by the authorities of the concordat and complicating future discussion of amending the Remuneration of Teachers Act. In the event, the management side made a "first and last" offer of 7½% at the opening meeting on 24 July. The teachers' side rejected that and the Committee adjourned. It meets again on Friday 18 September.

We have no evidence that the local authority employers are contemplating raising their offer on Friday and I propose to instruct the Secretary of State's representatives to follow the previously agreed line as regards any management offer. However, at this second meeting and without an improved offer from the management side, the teachers may well ask that their claim go to arbitration. Under the present arrangements a reference to arbitration needs the agreement of both sides. This possibility was not explicitly mentioned in the earlier correspondence, but it seems to me that it would be inconsistent with the previous collective view to try to use the veto to prevent a reference to arbitration which the employers were prepared to allow. I would therefore propose to

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instruct the Secretary of State's representatives to argue against and vote against agreeing to arbitration if that is proposed; but not to seek to veto.

If colleagues wish to comment on the position before Burnham meets, I would need to have such comments by close of play tomorrow (Thursday).

Copies of this letter go to the members of E, Norman Fowler and Sir Robert Armstrong.

Yours

Paul

PAUL CHANNON

E.R.

CONFIDENTIAL

cc:- Mr Walters
Mr Ingham
Mr Duguid

Education

PRIME MINISTER

E: 12 FEBRUARY: ARBITRATION FOR TEACHERS PAY

This will be the third time that E has discussed arbitration, and the second time that Mr Carlisle has come back asking for the views of his colleagues on how to proceed. Last time it was confirmed that he should proceed with negotiations to remove unilateral access to arbitration by teachers; he has now come back to say that the unions are unanimously opposed to changing the arrangements for this year.

It is not at all surprising that the unions object, and indeed Mr Carlisle foresaw when he last came to E that the unions might object. The only new factor now is that the teachers agreed on 9 February to demand a 15% increase (there are 550,000 teachers affected, with a settlement date of 1 April). If they retain the right of unilateral access to binding arbitration, they can be expected to use it, and the outcome might well be an award in double figures. There is no particular reason why the teachers should receive such favourable treatment. It is, therefore, all the more important that E confirm its earlier decisions, to the effect that Mr Carlisle should proceed to change the arbitration rules.

While E is talking about arbitration, and since we want to press forward as hard as possible with the policy of disentangling ourselves from it, you may want to ask Mr Prior how he is proceeding with consultations with representatives of other groups, in accordance with the conclusions of the last meeting on 14 January - Mr Prior did, of course, arrange to answer a PQ on 16 January stating the Government's view that arbitration should only take place with the consent of both sides to the dispute.

11 February, 1981

CONFIDENTIAL

Ref: A04239

CONFIDENTIAL

PRIME MINISTER

Teachers' Pay: Access to Arbitration 1981
(E(81) 17)

BACKGROUND

In E(81) 17 the Secretary of State for Education and Science invites the Committee's view on whether, in spite of unanimous opposition of the teachers' unions and from the Association of Metropolitan Authorities, he should press ahead now with the withdrawal of unilateral access to arbitration on teachers' pay. If he is to act he must do so before the next meeting of the Burnham Committee on Wednesday, 18th February.

2. E have twice discussed this question. In a general discussion on 4th December the Committee agreed in principle that unilateral access to arbitration was undesirable and invited the Ministers concerned to press for withdrawal as soon as possible (E(80) 43rd Meeting, Item 1). On 14th January the Committee agreed that progress should be made in implementing that decision and invited the Secretary of State for Education and Science to consult formally the teachers' unions with a view to withdrawal before the 1981 pay negotiations began (E(81) 1st Meeting, Item 4). It was accepted that it was too late to make any changes this year in the arrangements for Scotland; and it was noted that the Secretary of State for the Environment had yet to advise the water and local authorities of the Government's views (without taking statutory powers he cannot impose those views on them). To guard against the criticism that action was being taken on teachers alone, the Secretary of State for Employment announced, in a Written Answer on 16th January that 'the Government's view [on arrangements which provide for the unilateral reference of disputes to arbitration] accords with the principle reflected in Section 3 of the Employment Protection Act 1975: and is that, except in special circumstances, arrangements about arbitration should provide for access to arbitration only with the consent of both sides of the dispute.'

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3. In a Written Answer on the same day the Secretary of State for Education and Science announced that he was writing to the Teacher and Local Authority Associations in England and Wales to consult them formally on the proposal and that he proposed that new arrangements should apply in relation to the forthcoming reviews of teachers' remuneration.

4. In his present paper he reports that the position of the employers is unchanged: the Association of County Councils want the change, and the Association of Metropolitan Authorities do not. A formal deputation from all the teachers' unions have told him that they are unanimously opposed to making the change this year. They object to action against them alone and they threaten that such a change now would seriously affect their attitude to the longer term negotiations on the arrangements for the future determination of pay and other conditions of service. The Secretary of State for Education and Science does not make any recommendations on the way forward, but it seems clear from his paragraph 4 that his inclination is to avoid the risk of pressing ahead now and to aim for changes in the context of the main review of pay and conditions of service.

HANDLING

5. You might open the discussion by inviting the Secretary of State for Education and Science to give his assessment and to make clear what his own view is. Of the other Ministers, you might invite the Secretaries of State for Employment, for the Environment and for Scotland in particular to give their views.

6. The Committee could well take the line that they have twice said that they want to press ahead with this change. The way has now been prepared, and expectations aroused, by the Written Answers of the Secretaries of State for Education and Science and for Employment. The position of the two main employers' associations is unchanged since the last discussion. It is not surprising that the unions are trying to delay the change so that they can exact the best negotiating outcome from the discussions of pay and conditions of service.

7. In deciding whether to confirm the early decision the Committee will, however, wish to consider in particular the argument that the change would make little difference in practice to this year's pay negotiations but could prejudice the longer term review of pay and conditions of service. The question is whether it is better to resist further delay and get on now with the changes in arbitration arrangements, or to defer the change for a year on the grounds that priority must be given to securing the best settlement of the review of pay and conditions of service, and the change can best be dealt with in that context.

CONCLUSIONS

8. If the Secretary of State for Education and Science is to implement withdrawal, he must act now and in advance of the Burnham Committee meeting next week. In the light of the discussion you will therefore wish to record a conclusion either that the Secretary of State should implement withdrawal now or that it should be deferred for negotiation in the context of the wider review of the negotiating machinery for the future determination of pay and conditions of service.

RWA

Robert Armstrong

11th February 1981

APS PC
Education

ELIZABETH HOUSE,
YORK ROAD,
LONDON SE1 7PH
01-928 9222

FROM THE SECRETARY OF STATE

The Rt Hon Norman St John Stevas MP
Chancellor of the Duchy of Lancaster
Privy Council Office
Whitehall
LONDON
SW1A 2AT

R
22/12

10 December 1980

Dear Norman,

TEACHERS' PAY NEGOTIATION MACHINERY

Thank you for your letter of 3 December. Of course so far as the April 1981 settlement is concerned there can be no question of new legislation effecting the outcome. I appreciate that there would be difficulties in finding time for an additional Bill this session but, as you say, we can look at the position again when we are ready to put forward more detailed information.

I am copying this letter to members of E, H and QL Committees, First Parliamentary Counsel and Sir Robert Armstrong.

Yours ever

Mark

MARK CARLISLE

tpl to sec
MJS

PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

Chancellor of the Duchy of Lancaster

3rd December 1980

Education
Bill

Dear Mark.

TEACHERS' PAY NEGOTIATING MACHINERY

010 to NJS?

Thank you for your letter of 1 December, in which you gave warning that you might be seeking legislative time this session to change the present arrangements for negotiating teachers' pay and other conditions of service in England and Wales

Although colleagues were helpful in QL Committee earlier in the week in agreeing to some lightening of our legislative programme, the pressures on legislative time this session will still be very considerable. We can look at the position again when you are ready to put forward more detailed proposals and we can therefore form some judgment on the likely length and complexity of the bill. I thought it right, however, to let you know straight away that there will be very considerable difficulties in finding time for an additional controversial bill this session, and we could only contemplate doing so if we were satisfied that legislation this session provided the only way of achieving the aims which you had in mind.

Your letter referred to the 1981/82 pay round by which I assume you mean the settlement in April 1982. So far as the April 1981 settlement is concerned, there can be no question of legislation affecting the outcome. If, as I assume to be the case, you wish to prevent the teachers from circumventing the cash limit in the April 1981 pay settlement, you will have, as I understand the position, to change the arrangements under the Remuneration of Teachers Act 1965 so that unilateral access to arbitration is no longer available to either side. This is the course recommended by Jim Prior in his paper on arbitration on public service pay which is to be discussed by E Committee on Thursday. I recognise

The Rt Hon Mark Carlisle, MP
Secretary of State for Education and Science
Elizabeth House
York Road

that imposing new arbitration machinery on the teachers is bound to lead to a confrontation with the unions, but that will happen irrespective of whether it is done by legislation or by administrative action. If all else failed you could, of course, have recourse to the "two Resolution" procedure for setting aside any arbitral award, but I agree with Jim Prior's argument that it is better to refuse access to arbitration in cases where it is unlikely that any award would be implemented.

I am sorry not to be more helpful but I am sure you will understand our difficulties.

I am copying this letter to members of E, H and QL Committees, First Parliamentary Counsel and Sir Robert Armstrong.

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Education

10 DOWNING STREET

7 November 1980

The Rt Hon Sir Keith Joseph Bt MP
Secretary of State
Department of Industry
Ashdown House
123 Victoria Street
LONDON SW1

Dear Keith,

SCOTTISH TEACHERS: E(EA), MONDAY 10 NOVEMBER

The Secretary of State for Scotland proposes not to take the power of veto over Scottish teachers' pay. At the same time, the Secretary of State for Education and Science is proposing to retain this power either by voluntary or statutory means. We believe the Secretary of State for Education's paper advances good reasons for doing this - rightly arguing that cash limits are not enough (paragraph 9 of E(EA)(80)56).

Although the circumstances in Scotland are different, it would seem very odd to go down one route in England and Wales and another in Scotland. It is very hard to see the force of the Secretary of State for Scotland's argument (in paragraph 5(ii) of E(EA)(80)55) that he would be open to a charge of discrimination against Scottish teachers if he were simply doing what is being done for other teachers. This leads onto a wider point. The experience so far suggests that more may have to be done in other fields of the public services to increase the power of central Government to ensure that public service pay accords with our economic circumstances.

I am copying this letter to the Prime Minister, the Chancellor of the Exchequer, members of E(EA), Robin Ibbs and Sir Robert Armstrong.

Yours ever

JOHN HOSKYNS

CONFIDENTIAL

Education 2

SCOTTISH OFFICE
WHITEHALL, LONDON SW1A 2AU

Prime Minister
The Scottish teachers in colleges of Education to get 14%. Like the teachers in England. TL 17/9

Tim Lankester Esq
Private Secretary
No 10 Downing Street
LONDON SW1

19 September 1980

MO

Dear Tim,

SALARIES OF ACADEMIC STAFF IN COLLEGES OF EDUCATION IN SCOTLAND

I am writing to report the outcome of the recent arbitration which was arranged by the Advisory Conciliation and Arbitration Service following the failure of the National Joint Committee for Salaries of Academic Staff in Colleges of Education in Scotland (NJC) to reach agreement on the claim by college lecturers for a pay increase from 1 April 1980.

When negotiations in the NJC broke down the final offer of the Management Side stood at 14 per cent, while the Staff Side claim was for an increase equal to the increase in the Index of Average Earnings (New Series) between April 1979 and April 1980 - 21.2 per cent. Pending the outcome of the arbitration, an interim award of 13.5 per cent was made from 1 April 1980. During the arbitration the Management Side contended that the offer of 14 Per cent represented a very fair offer when account was taken of the error in the Clegg Report on Teachers' Pay and that it was not feasible to make a more generous offer within the constraints of cash limits. The Staff Side argued that the Clegg error was irrelevant and should be disregarded, that the staff were entitled to the attainment and maintenance of salaries comparable with those in other areas of education and with the level of earnings generally; and that consideration of cash limits imposed unacceptable limitations on free collective bargaining.

The arbiter has recommended a pay increase of 14 per cent, at all points on all scales, with effect from 1 April 1980. Briefly, his argument seems to be that the Clegg settlement did not in any real sense establish new salary levels on any basis of comparability, but merely that pay increases for teaching staff throughout Great Britain would be on a uniform basis. That being so, and having had regard to other recent arbitration awards for teaching staffs, which were made with the firm intention of keeping the amount of new money within the region of 13-14 per cent, the arbiter concludes that appropriate relationships would be preserved by implementing the Management Side's offer of a 14 per cent increase.

Since the award is exactly similar to that recently made to teachers employed by local authorities in Scotland (following arbitration) and is compatible with the awards made to teaching staffs in England and Wales

(also following arbitration), Mr Younger is in no doubt that he should give effect to it and he is informing the NJC accordingly. The award can be accommodated within the relevant cash limits.

I am sending copies of this letter to the Private Secretaries of members of E Committee, to Peter Shaw (DES) and to David Wright.

Yours ever,

John Wilson

JOHN S WILSON
Private Secretary

VS

c. HO
FCO
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MAFF
Trade
D/N
CS, HMT

CONFIDENTIAL

10 DOWNING STREET

From the Private Secretary

19 August 1980

Scottish Teachers' Pay

I have consulted the Prime Minister about your letter to Mike Pattison of 18 August. The Prime Minister has agreed that your Secretary of State should go ahead with an early announcement of acceptance of the Chairman's recommendation, as proposed in that letter.

I am copying this letter to the Private Secretaries to members of E Committee, and to Peter Shaw (DES) and David Wright (Cabinet Office).

NJS

J.S. Wilson, Esq.,
Scottish Office.

CONFIDENTIAL

Telegraphed to Switzerland.

CONFIDENTIAL

PRIME MINISTER

Scottish Teachers' Pay

Mr. Younger has asked for your agreement to the early announcement of his acceptance of the arbitration award on Scottish Teachers' Pay.

When negotiations broke down in Scotland the final offer of the Management Side stood at 14% while the teachers were claiming 21.2%. The arbitration board itself was unable to reach agreement on a recommendation. In accordance with the relevant arrangements in Scotland, the Chairman has recommended an increase of 14% over and above the final stage of the Clegg award. The total cost increase in 1980/81 would be 14.5%, compared with 14.6% for the full year cost of the English award.

Mr. Younger is obliged to give effect to the recommendation unless both Houses resolve that national economic circumstances require that it should not be accepted.

He will make identical statements to those made in England and Wales about financing the award, namely that the local authority cash limit will not be adjusted to accommodate it and that authorities will have to meet it from existing resources or make savings in other ways.

I see no grounds for taking a different line in Scotland from that in England. Content to accept Mr. Younger's recommendation?

MS

19 August 1980

MESSAGE NO 2 TO SWITZERLAND

CLASSIFIED CONFIDENTIAL

MINUTE TO THE PRIME MINISTER FROM NICK SANDERS

BEGINS

SUBJECT: SCOTTISH TEACHERS PAY

MR YOUNGER HAS ASKED FOR YOUR AGREEMENT TO THE EARLY ANNOUNCEMENT OF HIS ACCEPTANCE OF THE ARBITRATION AWARD ON SCOTTISH TEACHERS PAY.

WHEN NEGOTIATIONS BROKE DOWN IN SCOTLAND THE FINAL OFFER OF THE MANAGEMENT SIDE STOOD AT 14% WHILE THE TEACHERS WERE CLAIMING 21.2%. THE ARBITRATION BOARD ITSELF WAS UNABLE TO REACH AGREEMENT ON A RECOMMENDATION. IN ACCORDANCE WITH THE RELEVANT ARRANGEMENTS IN SCOTLAND, THE CHAIRMAN HAS RECOMMENDED AN INCREASE OF 14% OVER AND ABOVE THE FINAL STAGE OF THE CLEGG AWARD. THE TOTAL COST INCREASE IN 1980/81 WOULD BE 14.5%, COMPARED WITH 14.6% FOR THE FULL YEAR COST OF THE ENGLISH AWARD.

MR YOUNGER IS OBLIGED TO GIVE EFFECT TO THE RECOMMENDATION UNLESS BOTH HOUSES RESOLVE THAT NATIONAL ECONOMIC CIRCUMSTANCES REQUIRE THAT IT SHOULD NOT BE ACCEPTED.

HE WILL MAKE IDENTICAL STATEMENTS TO THOSE MADE IN ENGLAND AND WALES ABOUT FINANCING THE AWARD, NAMELY THAT THE LOCAL AUTHORITY CASH LIMIT WILL NOT BE ADJUSTED TO ACOMMODATE IT AND THAT AUTHORITIES WILL HAVE TO MEET IT FROM EXISTING RESOURCES OR MAKE SAVINGS IN OTHER WAYS.

I SEE NO GROUNDS FOR TAKING A DIFFERENT LINE IN SCOTLAND FROM THAT IN ENGLAND. CONTENT TO ACCEPT MR YOUNGER'S RECOMMENDATION?

MESSAGE ENDS

ARE THERE ANY ORE MESSAGES TO COME K

NOT AT THE MOMENT K

OK KK

010

SCOTTISH OFFICE
WHITEHALL, LONDON SW1A 2AU

CONFIDENTIAL

Mike Pattison Esq
Private Secretary
No 10 Downing Street
LONDON
SW1

18 August 1980

Dear Mike,

SCOTTISH TEACHERS' PAY

I am writing to report the outcome of the recent arbitration which was arranged by the Advisory Conciliation and Arbitration Service in accordance with the Remuneration of Teachers (Scotland) Act 1967 following the failure of the Scottish Teachers Salaries Committee (STSC) to reach agreement on the claim by Scottish teachers for a pay increase from 1 April 1980.

When negotiations in the STSC broke down the final offer of the Management Side stood at 14% while the Teachers claim was for an increase equal to the increase in the Index of Average Earnings (New Series) between April 1979 and April 1980 ie 21.2%. The arbiters found that the principal issues dividing the parties were (a) whether or not account should be taken of the correction made by the Standing Commission on Pay Comparability to their Report No 7 on pay of teachers from 1 April 1979 and (b) disagreement on the importance to be attached to the concept of "ability to pay" on the part of local authorities. The report of the three man arbitration board indicated that they were unable to reach agreement on a recommendation. Consequently, in accordance with the relevant provision in the Arrangements for Arbitration, the Chairman (Mr Norman Singleton) issued a Chairman's Recommendation as follows:-

> "The appropriate increases in salary to be paid to (a) Scottish day school teachers and (b) Scottish further education teachers with effect from 1 April 1980 are 14% on the basis of the total payroll after implementation of the Standing Commission's recommendations."

The effect of such an award would mean that increases paid to teachers from 1 April 1980 would be based on the rate of salary reached at 1 September 1980 when the second stage of the salary settlement which was reached following the Report No 7 of the Standing Commission becomes due. This means that the arbiter's award would bring about an increase in the salary bill between 1 April 1980 and 31 March 1981 of about 14.5%. You will recall that the cost increase of the corresponding arbitration award in England and Wales was 14.6% in a full year.

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Under the 1967 Act my Secretary of State is obliged to give effect to the recommendation of the arbiter unless each House of Parliament resolves that national economic circumstances require that effect should not be given to the recommendation. The recommendation in this case is in fact the same as the Management Side had already offered and Mr Younger's view is that the award should be accepted.

Since Scottish schools started the autumn term this week and the STSC will be meeting on 27 August, Mr Younger is anxious to remove any uncertainty as soon as possible. He accordingly proposes to inform the STSC that he proposes to give effect to the award in accordance with the 1967 Act. When making the announcement of his decision to accept the recommendation my Secretary of State would of course follow the decision of E in relation to the arbitration award for England and Wales, by indicating that the local authority cash limit will not be adjusted to accommodate the present award, and that local authorities will either have to meet this from existing resources or have to make savings in other ways to finance the increased costs. I should be grateful if you could let me know by Wednesday whether the Prime Minister agrees to this course.

I am sending copies of this letter to the Private Secretaries to the members of E Committee.

Yours sincerely

John Wilson

JOHN S WILSON
Private Secretary

Mr. Sharpe

Remuneration of Teachers Act 1965

CHAPTER 3

ARRANGEMENT OF SECTIONS

Section

ELIZABETH II

1965 CHAPTER 3

An Act to make new provision for determining the remuneration of teachers; and for purposes connected therewith. [23rd March 1965.]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Committees to consider remuneration of teachers.

1.—(1) The Secretary of State shall secure that, for the purpose of considering the remuneration payable to teachers by local education authorities, there shall be one or more committees consisting of—

(*a*) a chairman appointed by the Secretary of State as being an independent person;

(*b*) one or more persons nominated from time to time by the Secretary of State to represent him, together with persons representing one or more bodies to which this paragraph applies;

(*c*) persons representing one or more bodies to which this paragraph applies.

(2) The bodies to which paragraph (*b*) of the preceding subsection applies are local education authorities, joint education committees, organisations appearing to the Secretary of State to represent local education authorities and organisations appearing to the Secretary of State to represent education committees; and the bodies to which paragraph (*c*) of that subsection applies are organisations appearing to the Secretary of State to represent teachers or particular descriptions of teachers.

(3) The Secretary of State shall determine which bodies to which paragraph (*b*) or paragraph (*c*) of subsection (1) of this section applies are to be represented on each committee constituted under this section, and the number of persons by whom

any such body is to be so represented, and (subject to the following provisions of this section) may from time to time vary or revoke any such determination.

(4) A determination of the Secretary of State whereby a body which is for the time being represented on a committee constituted under this section will cease to be so represented (except in a case where that body will have ceased to exist before the time when the determination is to take effect) shall not have effect unless it is embodied in an order made by the Secretary of State.

(5) Any order under the last preceding subsection may be revoked by a subsequent order made by the Secretary of State.

(6) Any power to make orders under this section shall be exercisable by statutory instrument; and any statutory instrument containing an order under subsection (4) of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) Subject to any determination of the Secretary of State under this section, it shall be for each body to which any such determination relates to nominate from time to time the person or persons by whom it is to be represented on a committee constituted under this section.

(8) The Secretary of State, either at the time when a committee is constituted under this section or at any subsequent time, may give directions specifying the descriptions of teachers whose remuneration any such committee are to consider, or allocating, as between two or more such committees, the descriptions of remuneration which they are to consider respectively.

Review of remuneration by committees.

2.—(1) It shall be the duty of each committee, whenever they think fit or are required by the Secretary of State to do so, to review the relevant remuneration of teachers as that remuneration exists (whether in pursuance of this Act or of any previous enactment or otherwise) at the time of the review.

(2) Where, in consequence of such a review, a committee agree on any recommendations with respect to the relevant remuneration of teachers, they shall transmit those recommendations to the Secretary of State.

(3) Subject to the following provisions of this section, on the receipt of any recommendations of a committee under the last preceding subsection the Secretary of State shall prepare a draft document, setting out the scales and other provisions required for determining the relevant remuneration of teachers, in the form in which, in his opinion, those scales and provisions should be so as to give effect to the recommendations of the committee.

(4) Where the Secretary of State has prepared a draft document under the last preceding subsection, he shall consult the

committee in question with respect to the draft and shall make such modifications of the draft as are requisite for giving effect to any representations made by the committee with respect thereto; and he shall then—

(*a*) arrange for a document setting out the requisite scales and other provisions in the form of the draft, or in that form as modified under this subsection, as the case may be, to be published by Her Majesty's Stationery Office, and

(*b*) make an order referring to that document and directing that the relevant remuneration of teachers shall be determined in accordance with the scales and other provisions set out in the document.

(5) If at the time when any recommendations of a committee are transmitted to the Secretary of State under subsection (2) of this section—

(*a*) an order made under the last preceding subsection is in force with respect to the relevant remuneration of teachers, and

(*b*) it appears to the Secretary of State that effect could more conveniently be given to those recommendations by amending the scales and other provisions set out in the document referred to in that order,

the Secretary of State, instead of preparing a new draft document under subsection (3) of this section, may prepare a draft order setting out the amendments of those scales and other provisions which, in his opinion, are requisite for giving effect to the recommendations.

(6) Where the Secretary of State has prepared a draft order under the last preceding subsection, he shall consult the committee in question with respect to the draft and shall make such modifications of the draft as are requisite for giving effect to any representations made by the committee with respect thereto; and the Secretary of State shall then make the order in the form of the draft, or in that form as modified under this subsection, as the case may be.

Provision for arbitration.

3.—(1) The Secretary of State shall make arrangements whereby, in such circumstances and subject to such exceptions as may be provided by the arrangements, matters in respect of which agreement has not been reached in a committee after they have been considered by the committee in accordance with the preceding provisions of this Act may be referred to arbitration in such manner as may be so provided.

(2) Before making any arrangements under the preceding subsection in relation to a committee, the Secretary of State shall consult the bodies which are to be represented on the committee

file (Teachers Pay) MS

in accordance with any determinations made by him under section 1 of this Act which are for the time being in force.

(3) Any such arrangements may include provision for the appointment of arbitrators by the Minister of Labour for the purposes of any reference under this section; and, where arbitrators are so appointed, that Minister may pay to the arbitrators such remuneration (whether by way of fees or otherwise) and such allowances as he may with the consent of the Treasury determine, and may provide accommodation or other facilities required for the purposes of any such reference.

1950 c. 27.

(4) The Arbitration Act 1950 shall not apply to any reference under this section.

Action on recommendations of arbitrators.

4.—(1) Any recommendations of the arbitrators, on a reference under section 3 of this Act with respect to any matters considered by a committee, shall be transmitted to the Secretary of State; and, except where those recommendations do not propose any change in the relevant remuneration of teachers, the provisions of subsections (3) to (6) of section 2 of this Act shall (subject to the next following subsection) have effect in relation to the recommendations of the arbitrators as if they were recommendations of that committee.

(2) If, in any case where any recommendations of arbitrators have been transmitted to the Secretary of State under the preceding subsection, each House of Parliament resolves that national economic circumstances require that effect should not be given to the recommendations, the provisions of section 2 of this Act referred to in the preceding subsection shall not have effect as mentioned in that subsection.

(3) Where such a resolution has been passed by each House of Parliament, the Secretary of State, after consultation with the committee in question, shall determine what changes (if any) in the relevant remuneration of teachers are appropriate in the circumstances, and, unless he determines that no such changes are appropriate, shall (subject to the next following subsection) proceed in accordance with subsections (3) and (4) of section 2 of this Act, or (where applicable) in accordance with subsections (5) and (6) of that section, as if the changes determined by him had been recommended by that committee under subsection (2) of that section.

(4) Subsections (4) and (6) of section 2 of this Act, as applied by the last preceding subsection, shall each have effect with the substitution, for the words from "shall make" to "giving effect to", of the words "may, if he thinks fit, modify the draft in consequence of".

Effect of orders as to remuneration.

5.—(1) Where any order made under subsection (4) of section 2 of this Act is for the time being in force, then, subject to the next following subsection, remuneration to which the order

applies shall be determined, and shall be paid to teachers by local education authorities, in accordance with the scales and other provisions set out in the document referred to in that order.

(2) Where, at any time while an order under subsection (4) of section 2 of this Act (in this subsection referred to as "the principal order") is in force, an order under subsection (6) of that section relating to remuneration to which the principal order applies (in this subsection referred to as "the amending order") comes into force, then, at any time while the amending order is in force, remuneration to which the principal order applies shall be determined, and shall be paid to teachers by local education authorities, in accordance with the scales and other provisions set out in the document referred to in the principal order as amended by the amending order.

(3) In this section any reference to subsection (4) or subsection (6) of section 2 of this Act includes a reference to that subsection as applied by section 4 of this Act.

Financial provisions.

6. There shall be paid out of moneys provided by Parliament—

(*a*) any increase attributable to this Act in the sums payable out of moneys so provided by way of Rate-deficiency Grant or Exchequer Equalisation Grant under the enactments relating to local government in England and Wales or in Scotland;

(*b*) any increase in the sums payable out of moneys so provided under the said enactments in respect of general grants, being an increase arising from any increase in the expenditure relevant to the fixing of the aggregate amounts of those grants which is attributable to the provisions of this Act;

(*c*) any increase attributable to this Act in the sums payable out of moneys so provided under section 107 of the Education Act 1944 in respect of administrative expenses incurred by the Secretary of State; 1944 c. 31.

(*d*) any expenses of the Minister of Labour in pursuance of section 3 of this Act.

Supplementary provisions as to orders relating to remuneration, and repeals.

7.—(1) Any power to make orders under the provisions of sections 2 to 4 of this Act shall be exercisable by statutory instrument.

(2) Any order made under those provisions may be revoked by a subsequent order thereunder.

(3) Any order under those provisions may be made with retrospective effect to any date specified in the order, and the remuneration of teachers to whom the order applies shall be deemed to have been payable accordingly:

Provided that nothing in this subsection shall be construed as authorising the remuneration of any teacher to be reduced retrospectively.

(4) Any order made under those provisions may include provision for revoking any order made under the Remuneration of Teachers Act 1963 which is for the time being in force.

1963 c. 20.

(5) Subject to the proviso to subsection (3) of this section, any order made under those provisions may contain such transitional, supplementary and incidental provisions as the Secretary of State may consider necessary or expedient.

(6) Without prejudice to the operation of any order made (whether before or after the passing of this Act) under the Remuneration of Teachers Act 1963, section 89 of the Education Act 1944 is hereby repealed.

1944 c. 31.

(7) The Remuneration of Teachers Act 1963 is hereby repealed as from the earliest date on which no order made under that Act (whether before or after the passing of this Act) continues to have effect.

Interpretation.

8.—(1) In section 1 of this Act "education committee" means an education committee established by a local education authority or a joint education committee established by two or more local education authorities.

(2) In sections 2 to 4 of this Act "committee" means a committee constituted under section 1 of this Act, and "the relevant remuneration of teachers", in relation to such a committee, means the remuneration which, in accordance with any directions under section 1(8) of this Act which are for the time being in force, that committee are required to consider.

(3) Except in so far as the context otherwise requires, any reference in this Act to an enactment shall be construed as a reference to that enactment as amended or extended by or under any other enactment.

Short title, citation, construction and extent.

9.—(1) This Act may be cited as the Remuneration of Teachers Act 1965.

(2) The Education Acts 1944 to 1964 and this Act may be cited together as the Education Acts 1944 to 1965.

(3) This Act shall be construed as one with the Education Acts 1944 to 1964.

(4) This Act, except section 6 thereof, shall not extend to Scotland.

(5) This Act shall not extend to Northern Ireland.

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Education
2

A02798

PRIME MINISTER

TEACHERS' PAY

BACKGROUND

The Committee has before it three minutes to you: of 31 July from the Secretary of State for Education and Science; and of 1 August from the Attorney General and from the Lord Advocate.

2. The Secretary of State for Education and Science argues that to defer the Resolutions until October would be politically extremely damaging, because it would give the teachers and others three months in which to mount a campaign against the Government. He recommends that, if action is to be taken it should be next week, notwithstanding the difficulties of finding time for the Resolution.

3. The Attorney General lists five options in his paragraph 8 and analyses them in his paragraph 9. They are as follows -

a. To move the Resolutions next week -
This is free from legal difficulty. It is the course which the Education Secretary recommends. But time would then have to be found for the Resolutions in both Houses.

b. To announce next week that the Government will definitely seek Resolutions when Parliament reassembles and that the present pay scales will continue in the meantime -
There could be no Court action. But there would be considerable criticism, and possibly strikes.

c. To announce next week that the Government is considering action when Parliament reassembles -
There is a risk of probably unsuccessful Court action, and of criticism both of the delay and of the uncertainty.

d. To give no indication at all of the Government's intentions until Parliament reassembles and then to seek Resolutions -
Successful legal proceedings would then be much more likely. Again there would be criticism of delays and of uncertainty.

e. To announce the intention of seeking Resolutions when Parliament reassembles, and to pay an interim award of, say, 9.2% immediately -
This attractive course is unfortunately ultra vires.

4. The Chancellor may want to canvass the further option of offering the teachers the choice between taking the 9.2 per cent offered and taking the award in full and cuts in numbers to offset the extra cost. That would enable proceedings in Parliament to be deferred while the teachers made up their minds; but I am not sure how real an option it is. The second limit - the award in full offset by staff cuts - would be very much less certain than cutting the award, because of the scope for argument between the employers and the unions as to how the cuts should be effected and distributed.

HANDLING

5. After the Attorney General and the Lord Advocate have spoken to their minutes, you might invite the Secretaries of State for Education and for Scotland to advise on how they now see the problem.

6. On the Attorney General's analysis the choice is effectively between his a. and b. : that is, Resolutions next week, or an announcement next week of Resolutions immediately after the Recess. For Scotland, where the awards will not be known for two or three weeks, the main possibility is to announce then that Resolutions will be moved after the Recess.

7. The Secretary of State for Education and Science makes a powerful case for the first course. But the Chancellor of the Duchy of Lancaster and the Lord President will wish to advise whether it is still a practicable option. They and the Chief Whip will also wish to advise whether they are now able to give firmer advice on the Government's chances of winning next week - and you will recall that some Members of the Cabinet laid great stress on the importance of this.

8. Both the Attorney General and the Lord Advocate seem to be consistent but, if Parliament passes resolutions in accordance with the correct procedures, there would be no legal basis for challenging them. I think you should press them on this. Is it really beyond doubt that the teachers' unions would be unable to find grounds for challenging the resolutions in the courts on the grounds that they were ultra vires, even if correctly laid? If they could find a way of getting a case into the courts, and the case reached the Court of Appeal, what might Lord Denning make of it? For the Secretary of State to be overruled by the Master of the Rolls would not be a happy outcome.

9. If, for reasons of the Parliamentary timetable, Resolutions next week are impracticable, the choice seems to be -

i. to announce the decision next week (and for Scotland when their awards are known) that the Government will seek Resolutions after the Recess, accepting that an effective campaign will probably be mounted in the meantime;

ii. to concede the awards.

CONCLUSIONS

10. In the light of the Committee's discussion you will wish to record conclusions -

either

i. agreeing that Resolutions should be moved in both Houses next week, and agreeing how the Business of both Houses should be changed to accommodate them,

<u>or</u>

ii. agreeing that decisions should be announced next week (or possibly as soon as the Scottish arbitral awards are known) that Resolutions will be moved after the Recess.

<u>or</u>

iii. agreeing that on practical grounds, and notwithstanding the merits of the case, the awards should be allowed.

<u>and</u>

iv. provisionally on the action to be taken when the Scottish awards are known.

ROBERT ARMSTRONG

(approved by Sir R. Armstrong and signed on his behalf.)

1 August 1980

ROYAL COURTS OF JUSTICE
LONDON, WC2A 2LL

01-405 7641 Extn

1 August 1980

PRIME MINISTER

TEACHERS' PAY

At Cabinet yesterday I was requested to advise on various courses of action on teachers' pay on the basis that HMG must seek to reject the arbitrators' recommendations in ACAS papers 2C/192 and 194 of 1980.

2. I understand that SOS(E) will publish the recommendations later today and say that HMG is considering its response. We have to decide what to do after this, and when.

3. My first point, to which I attach great importance, is that all announcements must be strictly consistent with the prior decisions HMG has taken. Failure to ensure this could have very grave consequences, especially if the teachers brought legal proceedings.

4. It may be helpful if I first give the statutory background. Under the Remuneration of Teachers Act 1965, which governs the pay of teachers in England and Wales, SOS(E) has a statutory duty (in section 2) to give effect in full to the recommendations of the appropriate committees. This is done in each case by means of a draft document setting out the new scales on which SOS(E) has to consult the committee responsible, and effect is then given to the new scales by his publishing the agreed document and making an order in respect of it; the scales have the force of law under section 5.

/5.

ROYAL COURTS OF JUSTICE
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01-405 7641 Extn

5. If a committee cannot decide on a recommendation to put to SOS(E), arrangements for arbitration have to be made under section 3. This occurred when the two sides of the Burnham Committees on primary/secondary and further education failed to agree on pay scales for 1980/81; and we now have the two sets of arbitral findings.

6. Under section 4 of the 1975 Act, SOS(E) has the same duty to give effect to arbitral findings as he does in the case of agreed committee recommendations under section 2, unless the "two House resolution procedure" is successfully invoked under section 4(2).

7. I have already advised on the substance of section 4(2). I will not repeat or add to that advice except to say that -

(1) the"Clegg error" is irrelevant to section 4(2) in the sense that it is not a matter that can properly be taken into account in deciding whether to invoke that provision, although I concede that it is relevant for assessing the real value of the award;

(2) if the resolutions are passed in each House according to the correct procedure, there is no legal basis for attacking them; and

(3) in that event, SOS(E) is obliged to determine what pay scales are appropriate in the circumstances and, after consulting the relevant committees, to give effect to them as if they had been their agreed recommendations (section 4(3)).

8. Against this background the following options for proceeding have been identified, and I list them in what I

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see as ascending order of legal difficulty.

A. Seek section 4(2) resolutions forthwith, before the recess begins.

B. Announce next week, or soon after the recess begins, that HMG will definitely seek resolutions when Parliament reassembles. The old pay scales to continue in the meantime.

C. Announce next week, or soon after the recess begins, that HMG is considering action under section 4(2) when Parliament reassembles. The old pay scales to continue in the meantime.

D. Do nothing and make no announcement until Parliament reassembles, but then seek resolutions. The old pay scales to continue in the meantime.

E. The same as B, save that HMG would mention a figure, say 9.2%, which it thought was the appropriate increase for 1980/81, and would authorise it to be paid immediately. Assuming resolutions were obtained, the object eventually would be to fix the increase for 1980/81 at 9.2% by means of the section 4(3) procedure; no larger amount would be payable unless the resolutions failed.

9. I have the following comments on these options.

A. This is free from legal difficulty.

B. Safe, although the delay would attract criticism. The courts would not be able to assist the teachers so long

/as

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as HMG was on record as intending to use section 4(2).

C. Here it is possible that the teachers would apply to the courts during the recess for a declaration (the only relief available in such cases against the Crown) that SOS(E) was bound to give effect under section 4(1) to the current arbitral recommendations.

I do not think that such an action would be successful because the courts would almost certainly say they were disabled from giving relief so long as HMG were on record as contemplating action under section 4(2). There could be criticism of the delay but that would be unlikely to affect the outcome under this option.

D. In this case legal proceedings by the teachers are much more likely and they would have a better chance of obtaining the declaration mentioned in C above by the end of the recess on the grounds (a) that there was no evidence that section 4(2) was going to be invoked and (b) there had been unreasonable delay by SOS(E) in carrying out his section 4(1) duty. In any event, legal proceedings by the teachers would probably force an announcement that section 4(2) was to be invoked, as in the case of option C, and HMG's earlier silence would be criticised. This option would be a dangerous course to follow and I cannot advise it.

E. This course would be ultra vires the 1965 Act because under that Act no change in the pay of teachers can be introduced without meeting such requirements as are applicable under section 2; and it would not be

/possible

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possible to satisfy these requirements under this option. Although legal proceedings by the teachers are less likely here than if options C or D were adopted, an ultra vires course is unthinkable.

10. If the decision is to resort to section 4(2) but resolutions under it are not carried in both Houses, then of course SOS(E) has an immediate statutory duty to give effect in full to the current arbitral recommendations and there is no escaping it.

11. The Lord Advocate will be advising separately in relation to the law of Scotland where a different Act applies.

12. This is copied to all members of Cabinet, the Lord Advocate, the Minister of Transport, the Chief Whips in both Houses and Sir Robert Armstrong.

M.H.

CONFIDENTIAL

PRIME MINISTER

TEACHERS' PAY

I understand that at Cabinet yesterday my views were requested on the various courses of action open to HMG in relation to pay awards to Scottish teachers.

The legal provisions in Scotland are contained in the Remuneration of Teachers (Scotland) Act 1967 and in most respects, and in particular Section 4(2), are in substantially the same terms as the English provisions, subject to one qualification which I mention below.

I have seen a copy of the Attorney General's minute to the Prime Minister of today's date and if the Scottish Act were applicable in the circumstances which he considers I would agree with his advice as applying to Scotland. Since I have not previously been asked to express my opinion on Section 4(2) I would simply underline the phrase "national economic circumstances require" - this strikes me as a fairly strong test to be contrasted to such a phrase as "national economic circumstances make expedient", but if both Houses of Parliament pass such a resolution in accordance with the correct procedures, there would be no legal basis for challenging it. Likewise I agree that the "Clegg error" is irrelevant in the sense described in paragraph 7(1) of the Attorney's minute.

The five options apply equally in Scotland, assuming that an arbitration award has been made. It would be for consideration as a further option whether if HMG intimated its intention to seek a resolution under Section 4(2) an interim adjustment could be made either by agreeing it with the relevant committee in terms of Section 2 of the Scottish Act or, before the Scottish arbiters give their decision, by amending the arrangements for the arbitration in Scotland under Section 3(1) to include an interim provision.

Copies of this minute go to all members of Cabinet, the Attorney General, the Minister of Transport, the Chief Whips to both Houses and Sir Robert Armstrong.

J.M.

MACKAY OF CLASHFERN
1st August 1980

CONFIDENTIAL

PT

Prime Minister

I very much share this view: if we are going to do this, we ought to do it next week.

TL 31/7

PRIME MINISTER

TEACHERS' PAY

At today's Cabinet meeting, we decided in principle to seek Parliamentary resolutions to set aside the teachers' arbitration awards in England and Wales. I understand that we will be considering the implications of this further on Monday.

2. Before we come to a final decision on timing, I wish to put on record my strongly held view: namely, that to decide on this action but not to implement it until October would put the Government in an indefensible position.

3. This is not primarily a legal point. The argument rests rather on these grounds:

a. We would be giving our opponents inside the educational world and elsewhere three months in which to mount a campaign against our decision;

b. The justification for such a campaign would be strengthened by its being represented as an attack on Government policy, rather than against a Parliamentary decision;

c. Parliament itself might feel some grievance at not having been given an opportunity to express its opinion before rising, given that the Government had been in possession of the awards for 2 weeks while they were still sitting;

d. During the intervening months, employing local authorities would be unable to pay teachers any part of the extra pay due to them from April (even the lower increase which we would implement if Parliament set the award aside);

e. All these considerations would make it much harder to win Parliamentary approval in October than now.

4. Moreover, if we went ahead with the Parliamentary procedures next week and were successful, this would strengthen our hand in taking a similarly tough line with the Scottish teachers, even though that award could not be taken to Parliament until October.

5. I conclude that deferring the Parliamentary resolutions until October would be politically extremely damaging, and that the balance of advantage lies wholly in going ahead next week in spite of the very real difficulty, which I appreciate, of the crowded timetable in both Houses.

6. I am copying this minute to all members of the Cabinet, the Attorney General, the Chief Whips in both Houses and Sir Robert Armstrong.

M. E. Bowden

for MARK CARLISLE
31 July 1980

(Approved by the Secretary of State and signed in his absence)

MARK CARLISLE
July 1980

Education

A02767

PRIME MINISTER

Teachers' Pay

BACKGROUND

The main papers are the minutes to you of -

i. 28 July from the Secretary of State for Education summarising the arbitration awards for 1980 for the pay of teachers in schools and further education in England and Wales.

ii. 29 and 30 July from the Chancellor of the Exchequer proposing that Parliament should be asked to set aside these awards.

iii. 29 July from the Chancellor of the Duchy of Lancaster on the difficulties of finding the necessary time in the House of Commons before the Recess.

iv. 30 July from the Secretary of State for Scotland in support of the Secretary of State for Education.

v. the letters of 9 and 25 July from the Attorney General to the Secretary of State for Education on the use of Resolution procedures in the two Houses.

2. The arbitration awards are summarised in paragraph 2 of the Education Secretary's minute of 28 July. They provide for increased costs in pay of 13½ per cent in 1980-81 (compared with the 13 per cent allowed for in the Rate Support Grant cash limit) and for 14.6 per cent in a full year. They are on a base which includes the cost of the Clegg error.

3. Before the error was discovered the Management Panel, of which the Government forms part, voluntarily offered a 13 per cent increase (that is, the amount allowed for in the cash limit). They subsequently amended this to 9.267 per cent to allow for the Clegg error of 3.7 per cent. In

arriving at their decision the arbitral body appear to have taken account of the 13 per cent as an indication of what the Government were able to pay. In a full year the offer of 14.6 per cent would cost £54 million more than one of 13 per cent and £179 million more than one of 9.3 per cent.

4. The Government has either to accept the awards or to invite both Houses of Parliament to set them aside by Affirmative Resolutions. The Government would have to satisfy both Houses that 'national economic circumstances required that effect should not be given to the recommendations' and to recommend an alternative figure. The Attorney General has advised, in his letter of 9 July, that it is not sufficient for the Government simply to dislike the award, but he accepts that "national economic circumstances" embrace the Government's overall view of the economic situation, including unemployment and pay levels in the economy as a whole.

5. The Secretary of State for Education argues that it would be very difficult to set the award aside, on grounds of national economic circumstances, when the Government said in April that it could offer 13 per cent (though in practice the present offer is slightly more than that). The Attorney General in his letter of 25 July thinks that this is a sound point.

6. The Chancellor of the Exchequer argues that the case can be made for overriding the award. The TSRB proposals could have been accommodated within cash limits, but that was not accepted as a reason for approving them. Since the offer of 13 per cent was made the economic situation has deteriorated, the local authorities have run into increasing difficulties over their expenditure, and a massive error in the previous award has been identified.

7. The arbitral body dealing with the Scottish teachers is likely to make its recommendations in about a fortnight. The Management Panel has proposed 14 per cent to them. If it is accepted that they must be treated similarly to England and Wales, it is likely that further Resolutions would be needed after the Recess to overrule their arbitration award.

8. If the awards are accepted, the Secretary of State for Education and Science wishes to announce them in a Written Answer before the weekend. If they are to be overridden, this will have to be announced in the Business Statement tomorrow, and time found in each House for the necessary Resolutions.

9. As to Parliamentary time, although the Resolutions of the two Houses are independent of one another, it would clearly be objectionable for the Lords Resolution to be moved before the Commons have reached a decision. I understand that the Lords business managers could most conveniently arrange for the Resolution to be debated on Wednesday, 6 or Thursday, 7 August. That points towards holding the Commons debate in the early part of next week. As the Chancellor of the Duchy of Lancaster points out in his minute of 29 July, it would be difficult to justify taking a debate on a subject of this degree of contentiousness late at night, and if it is decided to move the Resolutions it may have to be at the expense of some other item of Government business in the Commons. Monday is devoted to the Consolidated Fund (Appropriation)(No 2) Bill. Tuesday will be taken up with the consideration of the Lords amendments to the Housing Bill, and motions on the financing of British aerospace and the National Enterprise Board. You will wish to ask the Secretary of State for Industry whether these motions could, if necessary, be postponed; but tempers will already be running high on the Housing Bill amendments, and that might provide an unhappy climate for moving the teachers' pay Resolution. On Wednesday, the Commons will be considering the Lords amendments to the Tenants' Rights (Scotland) Bill and to the Health Services Bill. Could these wait until after the Recess? Presumably preferably not. There is opposed private business at 7 pm (including the moving of a mandatory instruction to the Committee to delete from the Greater Manchester Bill the proposed provision on the extension of direct labour), and a number of agricultural motions have also to be moved. If no place for the Resolution could be found in the first three days of the week, it would be necessary to look at Thursday; but that is a particularly congested day with the Procedure debate being followed by motions on Members' salaries and on financial aid to Opposition parties, the remaining stages of the Highways Bill, and the proceedings on the Statute Law Revision (Northern Ireland) Bill. You will wish to ask the Chancellor of the Duchy of Lancaster whether any time could be taken from the Procedure debate or the motion on salaries to accommodate an hour and a half's debate on the Resolution.

HANDLING

10. You will wish to invite the Secretary of State for Education and Science to make his case for accepting the awards and then invite the Chancellor of the Exchequer and the Secretary of State for Employment to comment on the implications for pay policy and the case for overriding them. The

Secretary of State for Scotland will wish to explain the implications for the Scottish teachers. The Attorney General can advise on any legal impediments to the proposed Resolutions. The Chancellor of the Duchy of Lancaster, the Lord President of the Council and the Chief Whip will wish to comment on the practical difficulties of finding time for the Resolutions next week and on the chances of the Government winning.

11. The Cabinet will wish to consider first whether the awards are acceptable in principle. Although they are additional to a base inclusive of the Clegg error, the arbitral body were aware of that error and of the Management Panel's view when coming to their decision.

12. If the Cabinet decides that the award is unacceptable in principle, it will then need to consider what the figure should be - presumably the 9.3 per cent recommended by the Management Panel in the light of the Clegg error - and what would be the practical difficulties of overturning the award. There are three questions -

i. Is the Government likely to win in both Houses?

ii. If not, is it better to risk losing than to do nothing?

iii. How can time be found in each House before the Recess?

13. If the Government is to recommend Parliament to override the awards it will have to propose an alternative figure. The most obvious would be the 9.3 per cent proposed to the arbitral body by the Management Panel.

CONCLUSIONS

14. In the light of the discussion you will wish to record conclusions on -

1. Whether to accept the arbitration awards and, if so, whether to authorise the Secretary of State for Education and Science to announce the decision in a Written Answer this week.

Or

2. a. Whether to seek to override them by Affirmative Resolutions in both Houses.

b. How the time should be found for those Resolutions.

c. Whether the alternative figure recommended by the Government should be 9.3 per cent.

d. Any points on Scottish teachers.

RWA

ROBERT ARMSTRONG

30 July 1980

Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

PRIME MINISTER

TEACHERS' PAY

I have seen Mark Carlisle's minute to you of 28 July. As I indicated in my earlier minute, I believe that we need to discuss this at Cabinet on Thursday. Contrary to Mark, I consider that the arguments point to asking Parliament to set the arbitration awards aside.

2. I agree with Michael Havers that the argument has to be based on national economic circumstances. But as he indicated in his letter of 9 July, this is what was done in your statement on TSRB. It does not in my view require a detailed excursus into the state of the economy. Nor does it preclude the argument that the award is too high. As you indicated in your TSRB statement, there is a need to set an example, and this is related to national economic circumstances. Not taking action in this case would make the TSRB decisions look like a hollow gesture, and would militate against the message we are trying to get home that significantly lower pay settlements are essential in order to avoid unnecessary unemployment. I do not see the fact that the employers originally offered 13 per cent (in line with last November's RSG cash limit figure) as determining the requirements of national economic circumstances, any more than the cash limit position was relevant to our TSRB decisions. In any event, the cost of the arbitration award, even this year and certainly in a full year, is higher than 13 per cent. At a time when we are pressing the local authorities

hard to cut back on their spending, it would be perverse for the Government to countenance an excessive pay award for this large and important group. At yesterday's meeting of the Consultative Council on Local Government Finance, the local authority representatives pressed for an undertaking that if the Government accepted arbitration awards above the employers' offer, the RSG cash limit would be increased to cover the excess. Although Mark Carlisle quite rightly refused to be drawn, accepting the arbitration could face us with considerable difficulties on this front.

3. A further argument for overturning the arbitration is the apparent refusal by the arbitrators to make any allowance for the error which the Clegg Commission themselves admitted and said would have been deducted from the settlement if they had been aware of it. Each 1 per cent increase on teachers' pay costs about £40 million. The arbitrators' ignorning this has therefore added some £130 million to the cost of the settlement, in my view unnecessarily. On any reading of national economic circumstances, such prodigality cannot be justified.

4. Finally, I am not clear that we shall be announcing the police pay settlement before the Recess. But in any event, the two cases are distinct: both because of police manpower shortages (the converse of the problem with teachers) and because of more specific commitments on law and order and the police.

5. If we decide to seek to overturn the arbitrations, we shall need to consider a figure to substitute, which Mark Carlisle would need to indicate in moving the resolution. I remain to be convinced that any increase higher than the employers' final offer of 9.2 per cent is justified.

6. I am copying this minute to the recipients of Mark Carlisle's.

G.H.

30 July 1980

Cabinet File

SCOTTISH OFFICE
WHITEHALL, LONDON SW1A 2AU

CONFIDENTIAL

Prime Minister

TEACHERS' PAY

I have seen a copy of the minute of 28 July which the Secretary of State for Education and Science has put to you about the arbitrations on the pay of primary and secondary teachers and of further education teachers in England and Wales, and we are to discuss this tomorrow morning.

I agree entirely with Mark Carlisle's conclusion that in all the circumstances it would be inappropriate to invoke the statutory procedure to set the awards aside and that in practice the only course open to us is to accept the outcome of both arbitrations. I share too Mark Carlisle's wish for an early announcement.

The corresponding Scottish negotiations have now gone to arbitration on the basis of a Management Side offer of 14% and a claim by the Teachers for a percentage increase equal to the increase in the Index of Average Earnings. The England and Wales arbitral awards, representing some 13.5% in this financial year and about 14.6% for future years, are much in line with the Scottish Management Side offer, and their speedy publication would enable the Scottish arbiters to take such account of them as they think appropriate.

I am copying this minute to the other recipients of Mark Carlisle's.

G.Y.

30 JULY 1980

PRIME MINISTER

I have seen a copy of the minute by the Secretary of State for Education and Science about the handling of the arbitration awards on the pay of teachers in primary and secondary schools and in further education.

Whatever the merits of the arguments for or against invoking the statutory procedure under the Remuneration of Teachers Act 1965, there would in any case be very great practical difficulties in finding time for the moving of the necessary resolution in the House of Commons in the few sitting days which remain before the Summer Recess. We could hardly justify taking a debate on a subject of this degree of contentiousness late at night, and I cannot see how it could be fitted in elsewhere without dropping some other important item of Government business.

I am copying this to members of the Cabinet, the Attorney General, both Chief Whips and Sir Robert Armstrong.

NSTJS.

N St J S

29 July 1980

Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

PRIME MINISTER

TEACHERS' PAY

I have just seen the reports of the arbitral body on the pay of teachers in schools and further education in England.

2. Subject to the views of the Secretary of State for Education, which I have not yet seen, I think we should consider these reports at Cabinet this week. The arbitrators appear to have recommended more than the local authorities, in the light of their cash limits, were able to offer even before the discovery of Clegg's mistake (which the arbitrators appear to have disregarded). The award would, therefore, exacerbate the problem of local authority over-spending. It would also contribute nothing to the new atmosphere relating to public sector pay settlements which we are trying to create. I think we must consider whether to ask Parliament to override the recommendations, and resolutions to that effect would be needed next week if we are to avoid a long delay during which many local authorities might well jump the gun. This suggests that we need to discuss the matter at Cabinet this week.

cc Secretaries of State for Education, Employment, Scotland, Wales, Members of E Committee, the Chancellor of the Duchy of Lancaster, the Chief Whips (Commons and Lords), the Attorney General and Sir Robert Armstrong.

(G.H.)

29 July 1980

Send David Wright

1

Prime Minister
Shall I confirm that you want this to go to Cabinet on Thursday? → And can I invite the Attorney?
(The Chancellor is in favour of overturning the arbitration; but Mr St John Stevas says there wouldn't be time for a debate).
TL 28/7

Yes
MT

28 JUL 1980

PRIME MINISTER

TEACHERS' PAY

I am circulating with this letter copies of the Arbitration Awards on Primary and Secondary and on Further Education Teachers' Pay, which reached me on Friday.

2. The awards are somewhat complicated, comprising these elements -

a. a basic 12% increase from 1 April 1980;

b. some modest pulling-out of differentials for school teachers in more senior posts, ranging from 1½% to 4%;

c. deferment of these differential payments to 1 September 1980, reflecting the arbitrators' desire to minimise the cost in the present year, which is accordingly increased by 13½% (compared with 13% allowed for pay and price increases in the RSG cash limit);

d. for future years however, it is right to say, the increase is about 14.6%.

3. These figures are on a base which corresponds to the original, uncorrected, recommendations of the Standing Commission. The Management Panel firmly submitted to the Arbitral Body that the true April 1979 base, for all future purposes, should be that of the corrected recommendations of the Standing Commission, namely, some 3.7% lower. The arbitrators firmly maintain that they have taken into consideration both the local authorities' ability to pay and the error by the Standing Commission.

4. Given the Government's present stance on public sector pay, the awards are more than we would have wished. The Chief Secretary raised the question, as long ago as 3 July, whether we might have to consider invoking the procedure in Section 4(2) of the 1965 Remuneration of Teachers Act to set the award aside. I now consider that possibility.

5. The Act places strict limitations on that procedure. The Government would have to satisfy both Houses that, in the words of the Act

> "... national economic circumstances required that effect should not be given to the recommendations."

The Attorney General referred to this in his letter of 9 July (reinforced by his further letter of 25 July): he said that it must be clear that the Resolution was not being used just because the Government did not like the award and because they themselves thought it too high.

6. For this purpose, the present awards could not be looked at in isolation, but would have to be related to other wage awards that this Government has accepted in similar circumstances. These range from 8.6% for some senior civil servants and 9.6% for Members of Parliament, to 16.8% for the armed forces and 18.7% for non-industrial civil servants and doctors and dentists, and a present offer of 18% increase on their pay scales to industrial civil servants.

7. A second relevant consideration, to which the arbitrators themselves refer, relates to this teachers' pay negotiation itself. At the stage when there was no reason to doubt the correctness of the original Standing Commission recommendations, the Management Panel in England and Wales (of which the Government forms part) voluntarily offered a 13% increase from April 1980 and the Management Side in Scotland (of which the Government equally forms part) voluntarily offered 14% and have maintained their offer. Against that history, it seems to me difficult if not frankly impossible to carry the argument that "national economic circumstances require" the arbitrators' award to be set aside.

8. If we were to ask Parliament to set the teachers' arbitration award aside we could not, in my view, be sure of getting the Resolutions through both Houses, and more particularly through the House of Lords. This would be reinforced if, as I understand, we may be announcing a pay increase of the order of 21% for the police before Parliament rises.

9. I accordingly conclude that the only course open to us is to accept the outcome of both arbitrations. I hope we can proceed quickly: there is nothing to be gained by delaying an announcement, and since it is known that the awards were delivered to me on Friday there will be speculation which could be damaging. My aim would be to give a Written Answer and publish the Awards not later than the end of this week. I shall be glad to know if you and colleagues agree.

10. I am copying this to all members of Cabinet, the Attorney General, the Chief Whips of both Houses, and to Sir Robert Armstrong.

M. C.

MARK CARLISLE

Education

10 DOWNING STREET

TIM

Peter Shaw rang to say

(1) if we were to overturn the award, we would need to act between now and the Recess — which would be difficult. I told him it wasn't impossible;

(2) Mr C's credibility depended on accepting the award — and especially not on achieving the worst outcome of all (defeat in the Lords). I said we took the point;

(3) he would like a word: I told him you might be available after The Speech

MPS 22/1

2

Prime Minister

The arbitrators have recommended increases of about 14.5%, compared with the offer of 9%. Mr Carlisle will argue that this should be accepted.

DEPARTMENT OF EDUCATION AND SCIENCE
ELIZABETH HOUSE, YORK ROAD, LONDON SE1 7PH
TELEPHONE 01-928 9222
FROM THE SECRETARY OF STATE

Tim Lankester Esq
Private Secretary
10 Downing Street
LONDON SW1

25 July 1980

TL 25/7

Dear Tim

ARBITRATIONS ON THE PAY OF SCHOOL TEACHERS
AND FURTHER EDUCATION LECTURERS

The reports to the Secretary of State by the arbitrators on the pay of school teachers and further education lecturers have just been received and I enclose copies of them. Mr Carlisle had to leave London earlier in the afternoon for a meeting in his constituency; it is his intention to minute colleagues as soon as possible on Monday setting out his proposals.

I am copying this letter and enclosures to Richard Dykes and Alastair Pirie.

Yours sincerely

Peter

P A SHAW
Private Secretary

ADVISORY CONCILIATION AND ARBITRATION SERVICE

REPORT AND RECOMMENDATION

of an arbitral body appointed in accordance with
the Remuneration of Teachers Act 1965,
as amended by
the Employment Protection Act 1975,
to resolve a difference between
the Teachers' Panel and the Managerial Panel
of the
Burnham Further Education Committee

ACAS 2C/194/80

Present at the hearing in Room 134, Cleland House, Page St, Westminster at 2.00pm on Wednesday 9 July 1980.

Members of the Arbitral Body

Professor Sir John Wood, CBE, LLM (Chairman)
Mr M Bett, MA
Mr G Doughty
Mr C L Parsisson (Secretary)

Representing the Management Panel of the Burnham Committee

Mr A G Gronow
Mr J R Horrell
Mr A Lawton
Mrs K Penley
Mr B J Rusbridge
Mr C R Walker
+ 5 other representatives

Representating the Teachers' Panel of the Burnham Committee

Mr J C N Baille
Mr P Dawson
Dr P Knight
Mr K Scribbins
Mr D O Weitzel
+ 6 other representatives

INTRODUCTION

1. Following a reference to the Advisory, Conciliation and Arbitration Service (ACAS) by the Chairman of the Committee constituted under the Remuneration of Teachers' Act 1965, (The Burnham Committee), the ACAS appointed an arbitral body to consider a difference which had arisen between the two Panels of the Burnham Further Education Committee. The Minute of Appointment is attached as a Appendix 1to this report.

2. The terms of reference, as submitted by the Chairman of the Burnham Further Education Committee were as follows:-

> "To consider all matters relating to the claim of further education teachers in England and Wales for increases in salaries and allowances with effect from 1 April 1980 with the following exceptions; Agricultural Staff, Research Staff, Part-time Staff; London Allowance, and to make recommendations".

BACKGROUND

3. This reference relates to 80,323 full-time teachers in Establishments of Further Education in England and Wales.

4. Increases in teachers pay have been restricted in line with Government income policies. The Houghton Report, published in December 1974, recommended increases estimated at 29%, teachers felt this had brought their pay into proper perspective. By 1978 teachers were concerned because they felt that pay policies had again eroded their position and had affected them more rigorously than other sections of the community.

5. The 1979 claim for a pay increase was referred to the Standing Commission on Pay Comparability. The reference to the Commission was made on the understanding that;

(i) there should be a 9% increase on scales and allowances from 1st April 79,

(ii) further increase resulting from the reference to the Commission negotiated in the Burnham Committee should be phased in equal instalments on 1st January '80 and 1st September '80.

(iii) an advance payment of £6 per month to full-time teachers (with a pro-rata payment to part-time teachers) from 1st April '79 to be deducted between 1st January and 31st March '80 from the first stage increase.

6. In the absence of the report at the end of 1979 an interim increase in salaries of 7½% was agreed in Burnham from 1st January '80.

7. The report of the Standing Commission was published on 14th April '80. By 8th May agreement had been reached on scales, incremental points, allowances and the phasing of the increases.

8. The Teachers' Panel rejected an offer of 13% for 1980 based on the Standing Commission's scales and reiterated the claim for increases to match the movement in the Average Salary Index and the Retail Prices Index.

9. The Chairman of the Standing Commission wrote to the Prime Minster to say that the Commission had discovered an error of 4% had been made in some important data on which their recommendations had been based. This had resulted in the recommendation being 18.2% instead of the correct figure of 14.5%.

10. The Teachers' Panel ratified the post Commission agreement and refused a Management Panel request to reopen the agreement. The independent Chairman of Burnham ruled he would send the agreement to the Secretary of State for Education and Science. The Management Panel then withdrew the 13% offer for 1980 and substituted a lower offer adjusted in the light of the Commission's mistake.

SUMMARY OF THE MAIN POINTS OF THE TEACHERS' CASE

11. The Houghton Report in 1974, which was accepted as a reasonable evaluation of the work of a teacher, brought about a brief period of stability within the profession. The Management Panel had done little to maintain those levels. During periods of voluntary incomes policy settlements had totalled only approximately 20%.

12. The Management Panel had wished to refer the 1979 claim to the Standing Commission on Pay Comparability. Subsequent negotiations had resulted in increases of 17% to 25%.

13. The offer for 1980 had been 13% on post Commission scales. This was markedly below the rate of increases in major indicators. The Management offer would deteriorate the salary position of teachers. The Management offer of 13% was then reduced to 9.2%.

14. In 1951 it was established the basic further education Lecturer Grade 1 was related to the school teacher Scale 2. The Standing Commission, contrary to Houghton, reduced the differential with schools. This was not acceptable to further education teachers as a basis for future salary determination.

15. It was not accepted that the Standing Commission had made a mistake. The reference in the Standing Commission Report to teachers in Further Education was so brief that it was derisory. If a mistake had been made in the comparison of graduate entry it was so far removed to be of no consequence to the pay of teachers in Further Education establishments.

16. The system of further and higher education had developed to meet the needs of the community. It was necessary to have a flexible salary system sufficient to attract and retain staff of the necessary qualifications and ability .

17. The Teachers'Panel saw a need to amend the structural element of Further Education salary system because the present arrangement did not provide a fair career prospect. The Management Panel had made no offer at all on structural elements.

Staff were restricted to Lecturer 1 scale for the major part of their working lives, there should be an automatic progression from the top of the Lecturer 1 scale to the Lecturer II scale. 50% of the Lecturer posts should be Lecturer Grade II for category IV and V work.

18. Both Houghton and the Standing Commission called for a simplification of the Further Education salary system. The proposals concerning Lecturer I and II scales together with the merger of category IV and V work sought to achieve this simplification.

19. On Non-Advanced Work only a small proportion of Lecturers Grade II was promoted to Senior Lecturer. There was no prospect of such staff achieving Principal Lectureship, a proportion of Senior Lecturer posts should be converted to Principal Lecturer posts. There should be prospects for promotion to Senior and Principal Lecturer posts in non-advanced further education. The minimum proposals were;

(i) One Principal Lecturer and 3 Senior Lecturer posts in Grade V departments,

(ii) Mandatory posts should be additional to posts created under 0.5% range of proportions.

20. The final injustice was that Category IV and V work was combined but only received half the credit given to other categories.

21. Advanced Work should offer the same rewards as Universities. Houghton was committed to the view that there was a need to achieve relativities with the University pay system. Promotion beyond Lecturer II and Senior Lecturer compared unfavourably with promotion from University Lecturer to Senior Lecturer. Fewer than 1 in 10 Senior Lecturers gain promotion to Principal Lectureship. There were no proportions for Readership Posts or for Academic Posts, there should be an arrangement to ensure the establishment of Readership and Academic Posts. One of the recommendations of Houghton was with regard

to the use of Academic Posts above Readership Posts which should match the University provisions for the establishment of "personal chairs".

22. Category I and Category II and III were separated for unit totals and establishment calculations but they were combined to determine the transfer from Lecturer Grade II to Senior Lecturer and bar the passage on Senior and Principal Lecturer. They should be merged to simplify the salary system.

23. Agreement could not be reached on the revised offer for an increase in teachers' pay for 1980 and the failure to agree was referred to arbitration.

SUMMARY OF THE MAIN POINTS OF THE MANAGEMENT CASE

24. The Burnham Panels were divided on two major issues;

(i) the correct base upon which increases from 1st April '80 should be calculated

(ii) the rationale that should be adopted to determine these increases.

25. In 1974 the Houghton Committee had identified five issues it felt should condition the approach to teachers' pay;

(i) the supply of teachers,

(ii) teachers pay compared with general movements in pay,

(iii) teachers' pay compared with that of other occupations,

(iv) the work and status of teachers,

(v) simplification of pay structure.

26. The Management Panel held the view that indexation was not acceptable as the sole basis for determining pay.

Comparisons made between teachers and other workers should cover the total service given in return for pay and not pay levels in isolation. Percentage increases in average pay related to such things as basic pay, overtime, productivity payments and annual increments. To relate increases solely to percentage increases in average pay was too simple, inflationary and arithmetically questionable.

27. The Management Panel felt that if the error made by the Standing Commission was not adjusted in the 1980 settlement other groups of workers would feel that teachers had received an unfair advantage which they would expect to be reflected in their own settlements. An increase to teachers over 13% would seriously damage industrial relations with other groups of Local Authority Workers.

28. Local Authorities were under extreme pressures to reduce expenditure. They did not have the capacity to pay an increase above 13%, that was the absolute limit of authorities' resources. A cash limit had been placed on the Rate Support Grant which provided for pay and price increases not exceeding 13%. An increase above that level could only be sustained by a reduction in services and teaching posts or an increase in rates with propable Government resistance.

29. A 13% increase would mean a 37.8% individual increase in two years on the March '79 base and a 40% growth in the total salary bill. Increases of this size placed an intolerable burden on the public purse.

30. The improvements in pay structure submitted by the Teachers' Panel were complex issues requiring expertise and detailed knowledge.

31. The present system of Lecturer I and II scales was not unfair, the high number of Lecturers on the maximum of LI scale was caused by the large number of mature experienced workers from industry who commenced on high incremental points. There was a real need for two grades, automatic progression would give a higher salary for all regardless of worth or merit.

32. Merger of work; category IV is above 'O' level and V is 'O' level and below. There is no consensus among the parties on the need to change the system. There had been agreement that a Working Party should examine the position.

33. The request for more Senior Lecturer posts sought to increase the number of posts five fold. There was a lower number of class contact hours for Senior Lecturers than Lecturers in LI and LII, this would add substantially to the cost.

34. Changes in the formula for grading posts was resisted because they were not limited to any change in the volumes and levels of work.

35. There was no evidence of dissatisfaction with the present provisions of Mandatory senior appointments in Grade V and VI departments. Authorities had discretion to go much higher than one post in 10.

36. The present divisions for category IV and V work were adopted following the recommendation of the Houghton Committee in 1975. The Teachers' Panel proposals for reductions would effect almost all colleges and Departments to the extent of one grade. The Management Panel did not want to see any changes to the divisor because the Standing Commission had awarded relatively larger increases to Heads of Departments, Vice Principals and Principals than to other grades. Our attention was drawn particularly to an inverse relationship in some Institutes between a Vice Principal and Head of Department.

37. The total cost of the proposals was £64.35 million plus, or 9.65% of the pay bill.

38. The Management Panel asked the Board to take into account additional costs and make adjustments if improvements were to be made as claimed by the Teachers' Panel for improved staffing establishments levels and post gradings.

CONSIDERATIONS

39. The FE Teachers' Panel put forward to us a case in two parts. The first part dealt with the rates of salary, the

second largely with what might be termed structural matters. The Employers pointed out, not unnaturally, that both parts must be considered together since both involved financial cost. That point we accept but we noted the strong plea from the teachers that the structural matters involved matters of real concern and unhappiness to their members and needed consideration. Many of the issues raised had been raised many times, and it never seemed possible to make much progress in this area.

40. It seemed clear to us that there are areas in the pay structure which may well need revision. Those coming to the structures from outside feel inevitably that the complexity both prevents a quick understanding of the issues, but also probably hides underlying difficulty. Indeed, the Standing Commission in its Report expressed similar concern about the complexity, and despite spending a considerable time on the matter said it "lack(ed) the expertise and detailed knowledge" to formulate proposals for reform. That, a fortiori, must apply to an arbitration such as this.

41. These issues appear to straddle the whole structure. The two put to us in some detail involved the Lecturer Grade 1 at one end and the proportions of senior posts at the other. On both these issues, and on the other two we frankly felt ourselves unable to undertake the task of evaluating the arguments and believe we would have been foolhardy to do so. On the other hand we felt quite strongly that there is a prima facie case for these matters being evaluated in some depth. We would like to make two comments on that.

42. It must always be recognised that these changes will "cost money": some of them perhaps a considerable amount. Yet to wait for a salary negotiation for consideration is inevitably to lessen the chance of an objective review of the claims. It appears to us that the structure of the FE salary scales and rules do need periodic review. This is especially so since the content and balance of FE has changed considerably over the past few years. This brings us to the second point. It appears

to us that the best type of review is one which would look again, in the light of post Houghton experience, at the suitability of the present pattern: would identify the tensions inevitable in scales embracing different types of institution and work and would attempt to simplify wherever possible. One of the most obvious disadvantages of complicated structures is the inevitability of dissatisfaction, if not at first, very quickly. The exact form of this review if undertaken by the parties would we feel need to be carefully considered. It should if possible be structured as a technical exercise, perhaps with an independent component.

43. We therefore, with these suggestions alone, feel we must leave that part of the claim and turn our attention to the claims as to the appropriate salary scales for 1980-81.

44. The Teachers rest their case firmly upon the Houghton scales. They showed us, without difficulty, that whatever index was used, the current position had fallen considerably behind. That shortfall they sought to cure by this claim. The argument is clear and logical. It raises two questions - the validity of indexation and the impact of the Standing Committee Report.

45. Both Houghton and the Standing Committee (paras 274 and 10 respectively) indicated that any form of indexation of a comparative exercise would after a while become suspect. We accept that and must say that to index Houghton for the period suggested would be an unsafe guide as to appropriate scales in 1980. Indeed, the Standing Commission was intended to supply an up-to-date guide based on comparisons.

46. The FE teachers in effect wished to ignore this aspect of that Report. They explained to us that they had no belief in the value of that report as far as they were concerned. Two very cogent points were put forward. The scales appear to be derived from a comparison drawn at the lower end of the school teaching scales - the recent graduate in teaching and industry. The FE teachers attach great importance to comparisons toward the top - with the Universities and the Civil

Service for example. They felt that this aspect of their position had apparently received no attention. The comparison with movements in the Civil Service pay was stressed. The figure given was in the region of 16%. It was pointed out to us that this settlement involved additional factors: the payment was deferred, there was a reduction in posts and new procedural arrangements were agreed giving cost savings.

47. Secondly, the Report itself deals with the FE sector in only a few paragraphs and these they could not accept as a fair reflection of the strengths of the special aspects of their case. We have real sympathy with that view, and although we cannot base our considerations with confidence upon Houghton we are unable to turn with the confidence we would have liked to the Standing Commission results.

48. The Employers advanced the argument of their inability to pay and the need to appear to be even handed in the treatment of the various groups of workers with whom they negotiate. They accept the Standing Commission results: they have honoured the full scales set out in the Report, but feel it essential to re-adjust their attitude to the 1980-81 settlement in the light of the 4% error. They emphasised the lack of resources available to them and stressed that easy economies had long since been made. Any settlement above available resources would undoubtedly, in their view, damage the educational service and would involve further redundancies.

49. The teachers did not attempt to question the assumption that the economic position of the employers had worsened. They felt that the impact of Government policy had been overestimated and that assertions made as to the consequences of a recommendation in line with their aspirations may not be acted upon. We were invited to pay less attention to them than the Employers' Panel were suggesting. It was also strongly argued that there were indeed ways in which their claim could be met which did not involve the dire consequences put forward by the Employers' Panel. These statements appeared to the teachers to be merely a strengthened version of the standard employers' defence of

inability to pay - often made yet never really substantiated in the past.

50. This argument takes us close to the political arena where we are unable to make judgments. It is difficult for us to assess objectively and technically the underlying reality of the conflicting view upon the true financial constraints. We must, however, acknowledge the overall economic difficulties and accept that this claim has to be considered against this background.

51. It will be appreciated that the claim and response in this case barely overlap in their basic assumptions. Were we to take a simplistic view our task would appear to be to accept one or other of the different approaches. This we cannot do. There is no doubt in our mind that the teachers look, and will continue to look at what they regard as appropriate comparisons to measure the scales they believe to be fair. We must look at this aspect of the case, and recognise this attitude. Equally, there is considerable force in the ability to pay argument. We have to look at the offers made, the cost involved and decide to what extent the financial constraints must modify the comparative approach. We must balance what we heard of the morale of the teacher against what we heard about the ease or difficulty of recruitment at various levels.

52. All these considerations, and many more put to us both in the written and oral submission, have led us to fix both the shape and amount of our Recommendation.

53. Underlying the shaping of the recommendation is a firm intention to keep the amount of new money within the region of 13-14%, although the complicated position of the pay increases since 1 April '79 makes precise calculations virtually impossible.

RECOMMENDATION

54. With effect from 1 April '80 there will be added to the scales then in operation a sum derived from 12% of the full Standing Commission report scales.

55. With effect from 1 Sept '80 in addition to the second stage of the Standing Commission report scales there will be added a further sum, calculated on the full Standing Commission report scales in the following ways:-

(a) The points on the scales that received 17, 18 or 19% in the Standing Commission report - a further 3%.

(b) The points on the scales that received 20, 21 or 22% in the Standing Commission report - a further 2½%.

(c) The points on the scale that received 23% or more in the Standing Commission report - a further 1½%.

An example of how this recommendation will apply in practice is given at appendix 2.

56. On structure the Arbitral Body has come to no firm judgement because the problem is too complex. The employer accepts there are problems, attempts have been made for some time to overcome these problems but the Arbitral Body acknowledges that the Burnham Committee is perhaps not the best place to carry out this type of exercise. The Arbitral Body recommends that a review of structure should be undertaken by an independent body which can make recommendations to the Burnham Further Education Committee, so that issues can be agreed in principle and those which involve additional costs can be considered in future bargaining.

Signed/ John C Wood (Chairman)
M Bett
G H Doughty

July 1980

Appendix I

REMUNERATION OF TEACHERS ACT 1965

MINUTE OF APPOINTMENT

Whereas J S Wordie Esq MA LLB CBE, the Chairman of the Committee constituted under the Remuneration of Teachers Act 1965 (hereinafter referred to as "the Act") as amended by the Employment Protection Act 1975, to consider the remuneration of teachers in further education establishments informed the Advisory Conciliation and Arbitration Service in a letter dated 15 June 1980 of the failure of that Committee to reach agreement and requested the Service to convene an arbitral body pursuant to the arrangements made under Section 3 of the Act by the Secretary of State for Education and Science dated 14 April 1965, as amended by Section 125(1) and Schedule 16 Part IV, Paragraph 11 of the Employment Protection Act 1975.

Now, therefore, in pursuance of the powers conferred by the Acts and said arrangements, the Advisory Conciliation and Arbitration Service hereby appoints Professor Sir John C Wood CBE LLM, Chairman of the arbitral body and selects as members of the said body:

i. M Bett Esq (selected from a list of persons considered suitable by the Management Panel of the Committee);

ii. G Doughty Esq (selected from a list of persons considered suitable by the Teachers' Panel of the Committee).

The Service further appoints C L Parsisson Esq of ACAS to be Secretary of the arbitral body and all communications should be sent to him.

The terms of reference which have been agreed by the parties and forwarded to the Advisory, Conciliation and Arbitration Service by the Chairman of the Committee are:-

"To consider all matters relating to the claim of further education teachers in England and Wales for increases in salaries and allowances with effect from 1 April 1980 with the following exceptions; Agricultural Staff, Research Staff, Part-time Staff, London Allowance and to make recommnedations".

J V B LOCKYER
18 June 1980

Appendix 2

An example of the application of the recommendations is given below on a notional salary of £1,000

Notional Salary at 1 April '80		£1,000
(Note: only Part 1 of Standing Commission Recommendation will be paid at 1 April '80)		
Arbitration recommendation 1 April '80	12% =	£120
		£1,120
Arbitration recommendation 1 Sept '80	2.5% =	£25
(Note: Part II of the Standing Commission Recommendation will be paid from the same date.)		
		£1,145

ROYAL COURTS OF JUSTICE
LONDON, WC2A 2LL

01-405 7641 Extn 3201

25 July 1980

The Rt Hon Mark Carlisle MP
Secretary of State for Education and Science
Elizabeth House
York Road
LONDON S E 1

Dear Mark

TEACHERS' PAY

I have seen the correspondence between John Biffen and yourself following my advice of 9 July.

I would not quarrel with the resume of my advice in John Biffen's letter of 21 July.

However the point you make in your letter of 14 July about the original offer is a valid one and a factor of which I had not previously been aware.

If the offer of 13% previously made BEFORE the Clegg error was known was "broadly consistent with the cash limit we had ourselves set" it will be very difficult to argue that the requirements of section 4(2) are met so as to permit the arbitrator's recommendations to be overturned.

I fear that knowledge and discussion of this factor in the course of the debate would make the Government look rather foolish.

This is copied to all the recipients of John Biffen's letter of 3 July.

Yours ever.

Michael

Education

Treasury Chambers, Parliament Street, SW1P 3AG

Rt Hon Mark Carlisle MP
Secretary of State
Department of Education
and Science
Elizabeth House
York Road
London SE1 7PH

21 July 1980

Dear Mark,

TEACHERS' PAY

Thank you for your further letter of 14 July.

I must confess to reading Michael Havers' letter of 9 July rather differently. Of course I entirely accept his point that the Government cannot expect both Houses to overturn the arbitration simply because the Government does not like it. It will have to make a case based on national economic circumstances. But I had envisaged, and Michael Havers appears to endorse this, that "national economic circumstances" meant the Government's overall view of the economic situation, including unemployment and pay levels in the economy as a whole.

Michael Havers may wish to comment on the above. Subject to this, however, I suggest that the best thing is to wait for the outcome of the arbitration before proceeding any further.

I am sending copies to the recipients of the previous correspondence.

Yours

John Biffen

JOHN BIFFEN

Education

NEW ST. ANDREWS HOUSE
ST. JAMES CENTRE
EDINBURGH EH1 3SX

The Rt Hon John Biffen MP
Chief Secretary to the Treasury
Parliament Street
LONDON SW1

18 July 1980

MBM

R
24/7

Dear John,

TEACHERS' PAY

Thank you for sending me a copy of your letter of 3 July to Mark Carlisle. I have since seen Michael Havers' reply of 9 July and Mark Carlisle's of 14 July. In Scotland there is parallel provision, under the Remuneration of Teachers (Scotland) Act 1967, for overturning an arbiter's award.

In principle, I entirely support the line that Mark has taken. As you know, the last offer by the Management Side of the Scottish Teachers Salaries Committee (STSC) was 14 per cent and, since my representatives in the STSC did not invoke the "veto", I must be deemed to be associated with the local authorities in that offer. As I have previously explained, my line throughout has been that I have fixed the rate support grant provision for pay increases and that it is now for the local authorities to decide what they are prepared to offer. The fact that the rate support grant provision is compatible with an increase of broadly the amount offered would, I am sure, be argued against us if any attempt were to be made to overturn an arbiter's award of 14 per cent or less in Scotland. Like Mark, I would certainly not wish to rule out in advance the possibility of resorting to the Parliamentary procedure, but I think that in practice the question would only arise for Scotland in the event of an arbiter's award which exceeded 14 per cent.

It now seems likely that the pay claim by the Scottish teachers will in fact be referred to arbitration. On 10 July the STSC Management Side decided to propose unilaterally that the matter should go to arbitration, seeing as this as the only initiative that might be taken to break the deadlock on pay negotiations in Scotland and try to avert the serious industrial action which is threatened by the teachers for the start of the new school session next month. There is to be a further meeting of the full STSC on 21 July, at which it seems very unlikely that the independent Chairman will do other than agree that the matter should be referred to arbitration forthwith.

I am copying this letter to the recipients of yours.

Yours ever,

George.

CMA

ELIZABETH HOUSE,
YORK ROAD,
LONDON SE1 7PH
01-928 9222

FROM THE SECRETARY OF STATE

Education

The Rt Hon John Biffen MP
Chief Secretary to the Treasury
Parliament Street
LONDON
SW1

14. July 1980

Prime Minister

MT

Dear John.

14/7

TEACHERS' PAY

Thank you for your letter of 3 July. I would have written before now had I not been away with flu last week.

We will have to consider the arbitration award on its merits when we get it, and of course the possibility of resorting to the Parliamentary procedure to try to override it cannot be ruled out in advance. But your proposition that we seek to invoke it for any award above the Management Panel's 9.2% offer seems to me to be completely untenable. As you know the procedure would require each House to resolve

> "... that national economic circumstances require that effect should not be given to the recommendations."

Michael Havers has emphasised in his letter of 9 July that these words have to be taken literally: it would not be enough to demonstrate that the Government disagreed with the award. I cannot see on what grounds we could possibly propose to Parliament that national economic circumstances required them to override an arbitration award to teachers which, taking the Clegg error into account, turned out to be much in line with what the Government had already agreed to pay from the same date to other public servants such as the doctors and the main body of civil servants. Moreover, before the Clegg error was known, we had joined with the local authorities in making a 13% offer and there could be no denying the fact that such an offer, in combination with the original Clegg recommendations, was broadly consistent with the cash limit we had ourselves set.

I appreciate your concern to safeguard the level of the education service. But a Government move to reject a reasonable arbitration award, which would inevitably lead to a major dispute with the teaching unions, supported by a significant proportion of their employers (not limited to Labour authorities), would do nothing to raise educational standards or to assist recruitment to the shortage subjects.

I am sending copies of this letter to the recipients of yours.

Yours ever

Mark

MARK CARLISLE

ab

Caxton House Tothill Street London SW1H 9NA

Telephone Direct Line 01-213 6400

Switchboard 01-213 3000

Rt Hon Mark Carlisle QC MP
Secretary of State
Department of Education &
Science
Elizabeth House
York Road
LONDON SE1

10 July 1980

Dear Mark

MACHINERY FOR DETERMINING THE PAY OF SCHOOL AND FURTHER EDUCATION TEACHERS IN ENGLAND AND WALES

Thank you for your letter of 3 July. I shall be interested to hear how your meeting with representatives of the local authority associations goes.

Copies of this letter go to the recipients of yours.

Yours
Jim

Education

ROYAL COURTS OF JUSTICE
LONDON, WC2A 2LL

01-405 7641 Extn 3201

9 July 1980

Rt Hon Mark Carlisle QC MP
Secretary of State
Department of Education & Science
Elizabeth House
York Road SE1 7PH

R
17/7

Dear Mark.

I have seen John Biffen's letter to you of 3 July and would like to comment on the suggested use of the "Two-House resolution procedure."

If such a resolution was passed then that would be the end of the matter and there could be no legal basis for attacking you for failing to carry out your statutory duty to give effect to the increases.

My note of caution arises from the wording of section 4(2) of the Remuneration of Teachers Act 1964 ie "that national economic circumstances require that effect should not be given to the recommendations (of the arbitrators)".

It is likely to be argued against you that this subsection was contemplating a situation like the 1931 economic crisis and that its use in the present circumstances had not been intended by Parliament. HMG would therefore have to satisfy both Houses that the present national economic situation was the justification for the Resolution and that it was not simply that HMG did not like the award.

I would have thought that the Prime Minister's statement on Monday went a long way to establishing the justification required but I felt it right to warn you that it must be clear that the Resolution is not being used just because HMG thinks the award is too high.

It will of course be necessary to emphasise that the real value of the offer is 13.2%.

I have copied this letter to all the recipients of John Biffen's letter.

Yours ever. Michael.

CONFIDENTIAL

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10 DOWNING STREET

From the Principal Private Secretary

9 July 1980

Dear Richard,

INQUIRY INTO THE ERROR IN THE
CLEGG COMMISSION'S REPORT ON TEACHERS' PAY

The Prime Minister has seen your Secretary of State's minute and the report of Sir Alan Marre's inquiry into the error in the Clegg Commission's Report on teachers' pay.

She is still very concerned that an error which cost as much as £130m could occur in this way and she fears that similar mistakes could happen again. Nevertheless, she accepts Sir Alan Marre's conclusions and agrees that the Office of Manpower Economics should set out in writing the extent of the responsibilities of the various sections making up the Office. No doubt this recommendation will be implemented rapidly for, as the Prime Minister has commented, there is almost bound to be a PAC inquiry into the error and the steps that have been taken subsequently to prevent such a mistake happening again.

The Prime Minister agrees with Mr. Prior's and Mr. Carlisle's proposals for publicising the results of Sir Alan Marre's inquiry.

I am sending copies of this letter to Jim Buckley (CSD), Godfrey Robson (Scottish Office), Peter Shaw (DES), Jeremy Colman (CSD) and David Wright (Cabinet Office).

Yours ever,

Clive Whitmore.

Richard Dykes, Esq.,
Department of Employment.

CONFIDENTIAL

1.

PRIME MINISTER

THE CLEGG ERROR ON TEACHERS'PAY: THE MARRE REPORT

The minute below from the Secretary of State for Employment submits the report of Sir Alan Marre's inquiry into the error costing £130 m. a year which was made in the Clegg Report on teachers' pay.

Mr. Prior's minute provides a good summary of the report. There is therefore no need for you to read the report itself, but if you do want to look at it, I suggest that you concentrate on paragraphs 34-46 which sets out Sir Alan Marre's comments on the events and his findings. He places the responsibility for the error wholly on the Office of Manpower Economics. His only recommendation is that the OME should set down in writing the extent of the responsibilities of the various sections of the office's staff. He does not, however, criticise any one individual, and Mr. Prior accordingly proposes not to take any formal disciplinary action against anyone. Are you, like Mr. Prior and Mr. Carlisle, content with Sir Alan Marre's conclusions?

Do you also agree with the proposals for publicising the results of the inquiry made by Mr. Prior at the end of his minute? Yes.

AWS.

I think the country will conclude as I do that the £130m has been incident very lighting indeed and similar things will therefore happen. (Mind the P.M.'s will deal with it in more schoolmasterly HT.)

8 July 1980

CONFIDENTIAL

Cc Mr. Ingham

PRIME MINISTER

INQUIRY INTO THE ERROR IN THE CLEGG COMMISSION'S REPORT ON TEACHERS' PAY

This minute comes jointly on behalf of Mark Carlisle and myself. Sir Alan Marre has now reported to us the results of his inquiry into the causes of the error in this Report which led the Commission originally to recommend increases in pay 3.7 percentage points (or pay rates of £130m per annum) higher than would otherwise have been the case. A copy of his report is attached. The inquiry was limited to what appeared in the Commission's report as published; it was not concerned with the subsequent negotiations leading to settlements before the error was discovered.

why not?

Mark Carlisle and I are well satisfied with the way Sir Alan Marre conducted a thorough inquiry. He interviewed all those who might have been concerned, considered some supplementary written statements and examined relevant documents. We accept all his conclusions.

The error originated in information obtained by a junior officer in the Office of Manpower Economics (OME) in January about the starting pay of graduates entering teaching, ie the number of increments to which they are entitled on appointment. This was obtained by telephone and it has not been possible to establish what precise information was requested or from what source it came. The information was required urgently, the OME officers concerned were not aware of the complexities of teachers' pay and it would have been contrary to the OME's normal practice to send the draft paper in which the information appeared and which was prepared for the Commission to the DES for comment. The purpose of this paper was to review fall-back positions if the Commission were unable to establish a satisfactory factor analysis approach as it hoped.

why?

In the event, such an approach could not be established and after a meeting of the Commission in March at which OME officials were not present they learnt that a new approach was likely to be followed. The starting point for this approach was the salaries of graduate teachers on appointment. The error in the basic information then became crucial. There followed a period (from 10 March to 1 April, when the Commission's Report was submitted to you) in which this new approach was developed and the Report completed and during which the basic and erroneous information was not checked.

Sir Alan Marre is rightly critical of this failure. He points to "an inexcusable confusion" within the OME over whose responsibility it was to verify all the facts. The statisticians saw their task as checking the calculations, not the basic information; the administrator directly concerned (a Principal) believed that the statisticians would check all the figures and source information. Sir Alan Marre concludes that it would be clearly desirable to set down in writing for all OME staff the extent of their responsibilities as nearly as possible. This is his sole recommendation. He concludes explicitly that he does not criticise any one individual. This being so, I am sure that the possibility of formal disciplinary action for any official cannot arise.

I appoint the staff of the OME and I have asked for immediate reassurance from the newly appointed Director that clear guidelines are being issued to his staff to ensure that such confusions never again occur and that there will be no repetition of such a serious, and for the OME wholly exceptional, error.

Sir Alan Marre makes no criticism of the DES, who had the Report, as did my Department, in the period from 1 April to 14 April, when it was published. The DES had no prior knowledge of the approach the Commission had come to adopt. In order to minimise the risk of any leak of the report's contents before the two major teachers' conferences in the following

week, copies were limited, on Mark Carlisle's instructions, to a very small number of senior officials. The size of the recommendations was within the range expected and Sir Alan Marre concludes that it would have been surprising if a senior official, with some familiarity with the complexities of the details of teachers' pay, had detected that some part of the basic information was incorrect, given the prime need to prepare urgently for the negotiations.

The Commission itself is exonerated; its accepted responsibility was essentially formal.

You told the House of the inquiry and it is necessary to make a statement on its outcome. Mark Carlisle and I are agreed that I should do this by way of Written Answer. We are also agreed that this needs to be delayed until after the formal hearings on the two current arbitrations on teachers' pay are held on 8 and 9 July. This is because there are reflections in Sir Alan Marre's report on which the unions could possibly build. In paragraph 31 there is a reference to a Press report that local authority officials were aware of the error before agreements were reached and paragraph 44 states that the Commission's recommendations were within a range expected by DES officials. We do not however think that a statement can be delayed until the arbitrators' awards are known. Although we cannot be sure, these might well not be available until the second half of July. We therefore propose that I should give a Written Answer on Monday 14 July.

This would simply and shortly summarise Sir Alan Marre's findings and assure the House that instructions had been issued to OME staff to ensure that there would be no possibility of any further and inexcusable confusion. We also think it right to place copies of the report in the Library and, without publishing it, make copies available on request to inquirers.

I am copying this minute to Christopher Soames and George Younger and to Ian Bancroft and Robert Armstrong.

J P
July 1980

CONFIDENTIAL

INQUIRY INTO CAUSES OF ERROR IN PARAGRAPH 63 OF REPORT NO 7 OF STANDING COMMISSION ON PAY COMPARABILITY

REPORT

Introduction

1. My terms of reference from the Secretaries of State for Employment and for Education and Science were "to inquire into the causes of the error in paragraph 63 of Report No 7 of the Standing Commission on Pay Comparability, as published; and to report". To help me in this task I had assigned to me Mr A A Carter of the Civil Service Department. He has helped me greatly both in carrying out the inquiry and preparing this report.

2. In the course of my inquiry I interviewed (some more than once) the Chairman of the Commission and officials of the Office of Manpower Economics (OME), the Department of Education and Science (DES) and the Local Authority Conditions of Service Advisory Board (LACSAB) who played (or might have played) some part in providing information for the report, or who saw it at various stages prior to publication. A list of those I interviewed, a few of whom gave me supplementary written statements, is a Annex 1 to this report. I also examined relevant documents of the OME and DES. I wish to express my appreciation of the full cooperation I received from everyone.

3. I asked the Secretaries of the Teachers Panels of the Burnham Primary and Secondary and Further Education Committees if there were any matters specifically related to the cause of the error which they wished to bring to my attention. Their replies, one of which questioned whether an error had occurred, confirmed the impression I had already formed from my initial study that they could not provide any information directly relevant to my inquiry.

4. My report falls into two main parts.

5. The first (paragraphs 7 to 33), after giving some background information, describes the events leading up to publication of the error, as I have pieced them together from the evidence. As the evidence was considerable I have been selective and referred only to wha seemed to me the most relevant parts. Much of the evidence depended on witnesses' recollections, some of which were clearer than others. I was not often able, therefore, to confirm the accuracy of one witness's memory by reference to another's. In no case, however, were recollectio clearly in conflict.

6. In the second part of the report (Paragraphs 34 to 46) I make some comments and set out my findings.

BACKGROUND

7. The Standing Commission on Pay Comparability was appointed by the Prime Minister in March 1979 under the chairmanship of Professor Hugh Clegg, at that time Professor of Industrial Relations at Warwick University. Its task is to examine the terms and conditions of employme of particular groups of workers referred to it by the Government in agreement with the employers and unions concerned, and in each case to report on the possibility of establishing acceptable bases of comparison with terms and conditions for other comparable work and of maintaining appropriate internal relativities. The Standing Commission does not co-opt assessors or expert members versed in the subject matter of particular references but takes written and oral evidence from employers and unions and normally consults both parties on the data on which it intends to base its conclusions. Secretariat services for the Standing Commission are provided by the OME, an independent, non-statutory body set up in 1971 to serve primarily the Review Bodies on Top Salaries, on Doctors' and Dentists' Remuneration and on Armed Forces Pay but also other pay inquiries.

8. On 26 July 1979 the Standing Commission was asked to undertake a pay comparability study covering five groups of teachers. This was the

first of the Commission's references to be concerned with teachers and the first inquiry into teachers' pay since the Houghton inquiry of 1974 for which the OME also provided secretariat services.

Initial Approach to the Reference: The Job Evaluation Study.

9. The Commission received written and oral evidence over several months from unions and management concerned with teachers' pay. The Commission's initial view was that, since a job-for-job comparison was not practicable because of the absence of sufficient numbers of directly comparable jobs outside the groups being reviewed, some form of factor analysis would have to be used. The method adopted involved ranking jobs according to their relative worth on the basis of detailed information about job content and then assembling details about remuneration in jobs judged to be closely comparable in worth to teaching jobs. A firm of consultants was engaged to carry out this study (which I refer to later as the job evaluation study) under the supervision of a Steering Group chaired by the Commission's Chairman and including representatives of the teachers, their employers, and the consultants. The Steering Group set up six judging panels to assess and compare the content of teaching and other jobs. These panels were chaired by the consultants and included teachers' and employers' representatives and independent members. The parties to the negotiation of teachers' pay were thus heavily involved in the original approach taken by the Commission.

The Alternative Approach: Provision of Information by OME.

10. By early January 1980 the Commission had begun to have doubts about their initial approach in the light of the results of the first stage of the job evaluation study. There was still felt to be a reasonable chance that the second stage of the study would produce usable results. But the Chairman of the Commission considered it prudent to examine the feasibility of possible alternative approaches. On 16 January he discussed with the OME Principal and Statistician concerned with the teachers' reference the alternatives to be considered and asked them to

submit a paper exploring these. The Statistician was at that time heavily committed to other work and the task of drafting the paper fell to the Principal. He recalls being asked to submit the paper within two weeks and asked to compile it discreetly since the Commission did not wish to discuss with the parties to teachers' pay negotiations at that stage the possibility of an alternative approach which might never be used.

11. Several alternative approaches were considered in the paper, includin a comparison of starting salaries for graduates entering teaching with those for entrants to other occupations. Its preparation required considerable research and enquiry, and the time limit of two weeks to which the Principal was working meant that it had to be done at speed. Two other members of the OME secretariat (a Higher Executive Officer (HEO) and an Administration Trainee (AT)) were asked by the Principal to help gather information needed. The HEO (one of the officials I interviewed), who like other OME staff concerned had no previous acquaintance with teachers' pay matters, realised that the information was needed urgently and had to be obtained with discretion, but she explained to me that she had assumed that it was needed in connection with the job evaluation study, not to assist with the consideration of some alternative approach.

12. The information she had been asked to gather comprised several different items and, particularly in view of the urgency with which she understood the information was needed, she sought these by telephone. In some cases a telephone call resulted in a written response; in other cases the information was supplied on the telephone. Sometimes she was referred by a person who could not answer a question to another who could. One of the items of information for which the Principal had asked concerned the starting salaries of graduate teachers. Graduate teachers do not start at the bottom point of the relevant pay scale; they are entitled to be credited with a number of increments. The Houghton Report of 1974, which was one of the sources of ideas for the paper on alternative approaches, had referred to a credit of four increments for good honours graduates and equivalents and two for other graduates and equivalents. The HEO was not aware of this reference in the Houghton

Report and recalls being asked to find out simply what incremental advantages good honours graduates and ordinary graduates currently got.

13. In seeking this and other items of information the HEO spoke to various officials at DES and LACSAB, which provides a secretariat for the management sides in teachers' pay negotiations. So far as the incremental credit point was concerned, she recorded the outcome in the following terms in a minute dealing also with several other items:

'<u>Graduate starting pay</u>
+ 1 year post graduate teaching certificate
Incremental point 3 = ordinary graduate
" " 5 = good hons graduate
(£3,852)
" " 0 = certificate of education
(only 5,000)'

The Principal asked the HEO for clarification of what this note meant. He recalls being told that a post-graduate certificate was now compulsory for graduates in subjects other than education and that this conferred an entitlement to an extra increment. He further recalls confirming that it was the HEO's understanding that teachers who did not have this certificate received one fewer increment than those who did.

14. The note does not disclose the source of the information it contained and I have not been able to establish with any degree of certainty from whom it was derived. I considered whether it might have been obtained from some documentary source. While, however, the written evidence which had been submitted to the Standing Commission contains information on the incremental credits to which graduate entrants to teaching in Scotland are entitled, it contained no information which would have allowed the information recorded, which concerns teachers in England and Wales, to be deduced. The HEO did at a later stage, in order to determine how a "good honours" graduate was defined, obtain a copy of the Scales of Salaries for Teachers in Primary and Secondary Schools, England and Wales 1979, from which the incremental credit arrangements can, with considerable effort, be deduced. She did not, however, have

access to this at the time she recorded the information on incremental credits. She is, moreover, certain that she obtained the information by telephone. I have no doubt that this is what happened.

15. Having made a series of telephone calls to obtain various items of information, the HEO does not now recall, some 4 months later, to whom she spoke about that particular item and she has since destroyed the record she made at the time of the people she approached. It could have been someone in the DES Teachers Branch (where there are records of other enquiries from OME about this time but not of this particular enquiry). The staff of this Branch whom I interviewed have, however, no recollection of this enquiry and were emphatic that they would not have known the answer or would have been sufficiently aware of the complexity of the incremental credit arrangements not to venture an answer on the telephone. The information could also have been obtained from LACSAB. Here too, the staff concerned do not remember the enquiry (though they remember other enquiries from OME mainly about procedural matters) and have no record of it. Some of them at least would have been more likely to be familiar with the teachers' incremental arrangements, however, and I am inclined to think, though without any certainty, that the enquiry was more probably put to one of them.

16. In the event the outcome as recorded in paragraph 13 was inaccurate in that it was incomplete. It failed to recognise that B.Ed graduates, like those who had the post-graduate certificate, were also entitled to an extra increment by virtue of the qualification to teach which their degree conferred. It also omitted any reference to the entitlement to additional increments which is conferred by completion of more than 3 years of full-time study after the age of 18.

17. It seems to me probable that the inaccuracy was due to some misunderstanding. The teachers' incremental system is highly intricate, much more so than either the Principal or the HEO believed at the time the enquiry was made. Annex 2 reproduces the relevant extracts from the rules governing this system in order to illustrate this complexity. Anyone not familiar with the variety of ways in which increments can accumulate might not know exactly the right questions to put; and even

if the right questions were put, the answers might have been incomplete if the questions were not understood or the answers were being given by someone not fully conversant with the complexities of the system or unaware of the use which was to be made of the information.

18. The inaccurate information set out in paragraph 13 above was incorporated by the Principal in the paper on alternative approaches, which he submitted within the two weeks stipulated via his Assistant Secretary to the Chairman of the Commission. After some minor amendment proposed by the Chairman and checking of the calculations in the paper by OME statisticians, the paper was circulated to the Standing Commission on 11 February 1980.

19. The Principal who drafted the paper on alternative approaches was aware that the information on incremental credits had been obtained piecemeal and hurriedly and needed further checking. He recalls consulting his Assistant Secretary, who was secretary to the Standing Commission, and suggesting that the paper should be shown in draft to those in the DES and Department of Employment who had supplied information. His recollection is that he was told that this should not be done and that in this or subsequent conversations about the Commission's methods of working he formed the impression that there would be other opportunities to check the information if it was to be used by the Commission.

20. The Assistant Secretary does not now specifically recall these conversations, but both he and the Director of the OME have confirmed to me that, while one of the most important tasks of the secretariat is to satisfy itself that all material put to the bodies that the OME serves is thoroughly checked and that any inaccuracy in evidence from outside is identified, it is indeed contrary to normal OME practice to check with outside bodies the text of discussion papers prepared by the secretariat and submitted to the Commission or to other bodies which OME serves. Such papers are considered confidential to members.

21. No further attempt was made at this stage to check the accuracy of the content of the paper, which still represented no more than an analysis of possible alternative approaches which the Commission would wish to consider if (contrary to their hope at the time) usable results did not

emerge from the job evaluation study.

22. On 6 March the Standing Commission met to consider the consultants' report on the second stage of the job evaluation study. They adjourned to discuss the report in private, without the OME secretariat present, and decided that after all they could not base their report on that study because of the variability and inconsistency in the increases imputed from the study and doubts about the soundness of its methodology. Some three weeks after receiving the OME alternatives paper they now agreed that an alternative approach would be formulated for discussion at the next meeting on 13 March. The Chairman of the Commission explained to me that the reason why it sometimes met in private was that it found it easier to take certain difficult decisions without officials present.

23. On 10 March the Chairman of the Commission handed to the OME Secretariat a paper, which he had written in accordance with the decision taken at the meeting on 6 March, proposing an alternative approach to teachers' pay. This was the first sight that the Secretariat had of the proposed approach. The Chairman's paper was typed and circulated that day for consideration by the Commission on 13 March. The approach it advocated was based on comparisons between the salaries of graduate entrants to teaching and to other occupations three years after entry. For this purpose it drew on information concerning graduate starting salaries contained in the OME alternatives paper of 11 February. It repeated, in slightly different form, the inaccuracy relating to the incremental entitlements of graduate entrants to teaching in England and Wales. The calculations in the paper were checked by OME statisticians but not the souce data.

24. On the day the Chairman's paper was circulated, 10 March, the Commission discussed the result of the consultants' study with the parties to the teachers' pay negotiations at separate meetings. At a later informal meeting, on 21 March, the Chairman told representatives of the parties that the Commission had taken the view that it could not place much weight on the results of the consultants' study and that it would have to put more emphasis on other evidence. However, at no stage prior to publication were the parties told that the Commission would not be using the results of the consultants' study at all or that an alternative approach was being adopted

That was because, on the basis of previous experience the Commission feared that such information would be leaked to the press. The Commission also departed from its normal practice of showing the parties the data on which it was to base its recommendations. It did so because, in its view, to reveal to the parties the figures on which the alternative approach was based would, since the base was a much narrower one than normally used in its comparability exercises, also reveal the approach and point to the Commission's likely recommendations.

25. On 13 March the Commission met again to discuss the Chairman's paper. At the Chairman's request, no member of the OME secretariat was present and no note was taken of the discussion. The approach recommended in the Chairman's paper was, however, adopted with modifications. The Chairman, with help from the OME staff, then prepared a draft of Chapter 5 of the Commission's report based on the discussion of his paper. This was circulated on 17 March and considered by the Commission on 20 March. The draft repeated the inaccurate statement about teachers' incremental credits which had been derived from the earlier papers. The inaccuracy was then carried through to a final draft of the report which was circulated on 24 March, approved by the Commission on 27 March and received by the Prime Minister in its final form on 1 April, the inaccurate information appearing in paragraph 63.

26, I have confirmed that, during the period in which the draft of Chapter 5 was being considered by the Commission, the calculation of what the percentage pay increases proposed would mean in salary terms for the first nine points on the entry scale, and its estimate of the costs of its proposals, were checked by the OME statisticians. The Principal who had written the paper of 11 February on which the Chapter 5 approach drew told me he assumed that the statisticians would check all aspects of the figures used in Chapter 5, including definitions and sources. The statisticians, however, told me, they saw it as their responsibility to check the arithmetical calculations in Chapter 5 but not the accuracy of the information on which these calculations were based. In the event, neither checked the accuracy of the information.

27. In the week prior to submission of Report No 7 to the Prime Minister the Department of Education and Science was sent, for checking, the texts of Chapter 1, containing factual statements about the reference groups, and Appendix 3, concerning the grade structure of teaching. Consistently with the Commission's earlier decision not to inform the parties about the content of the alternative approach, the Department was not, however, sent Chapter 5, containing the inaccuracy, for checking.

Events Following Completion of the Report

28. On the day that the report was received by the Prime Minister it was also received by DES. On the instructions of the Secretary of State for Education and Science and of the Permanent Secretary of the Department, access to the report prior to publication was confined to the Under Secretary in charge of Teachers Branch and to his Assistant Secretary concerned with teachers' pay. This decision was taken in order to minimise the risk of any leak of the contents of the report. The report had been received just before the Easter week conferences of the two major school teachers' unions. The Department thought it would be open to criticism if, during the period when the report was being processed for publication, either union became aware of it before the other. The Under Secretary told me he had not himself the detailed knowledge of the complex incremental credit system which would have been required to detect the error in paragraph 63. The Assistant Secretary for his part told me that (though he was not familiar with the particular arrangements for B.Ed graduates) he had sufficient background knowledge to know in general of the entitlement to additional increments conferred by completion of more than three years' full-time study after the age of 18. It was therefore conceivable that he might have observed that paragraph 63 was to that extent inaccurate. He had, however, no reason to look particularly at that paragraph and he was in any case preoccupied during this period, together with his Under Secretary, in considering with local authority representatives and others the tactics for handling negotiations with the teachers' representatives after publication of the report, and in dealing with other business arising while the Under Secretary was attending the union conferences. Moreover although both of them had been unaware until 1 April of the approach which the Standing Commission's report was taking, the Under Secretary told me that the size of the pay increases recommended, which was of crucial interest to the Department, was consistent with their own expectations and in line

with what nurses and civil servants had received; it did not therefore alert them to the possibility of any error in Chapter 5, which they looked upon as a last-minute attempt to arrive at an acceptable solution.

29. Report No 7 was published on 14 April. Although the post-publicati period falls strictly outside my remit I think it is convenient for me to round off the narrative by referring briefly to what followed.

30. On 14 April the report became generally available, among others to the more junior staff at DES and also for the first time to LACSAB, who circulated it on the same day to the local authority members of the management side of the Burnham Committees which negotiate teachers' pay. On 18, 23, 25 and 28 April the Burnham Committees met and reached agreements based on the Standing Commission's recommendations. There is no evidence that at that stage anyone at DES or LACSAB had detected the error in paragraph 63. Staff of both have assured me that it was not until Mr Paul Williams of the Sunday Telegraph began to make enquiries at the end of April, which resulted in his disclosure of the error in an article on 4 May, that they became aware of the error.

31. Mr Jarvis, General Secretary of the National Union of Teachers and Secretary of the Teachers' Panel of the Burnham Primary and Secondary Committee, has been quoted by Mr Williams as saying that local authority officials were aware of the error before the agreements were reached. Mr Jarvis made no mention of this in his letter to me on behalf of the Primary and Secondary Committee Teachers' Panel, to which I have referred in paragraph 3 above, and neither DES nor LACSAB was ab to provide any corroboration of it.

32. By way of explanation of their failure to detect the error in the period immediately following publication of Report No 7, DES and LACSAB have explained that their staff were heavily engaged in turning th Commission's recommendations into pay scales, costing them and reconciling their estimates with each other and with the OME's estimates in readiness for Burnham Committee meetings. An additional factor, so far as DES were concerned, was that the Principal most familiar with the Burnham pay system began three weeks' leave on the day of publicatio

33. To conclude the story an allegation was reported in the press on 20 May that another error had been made by the Standing Commission, the effect of which was exactly to counterbalance the error in paragraph 63. It was suggested that, in comparing graduate teachers with other graduates, the Commission had failed to take proper account of the fact that graduates entering teaching had normally completed four years' training while a graduate recruit to industry had completed only three. The Commission has flatly repudiated this suggestion, indicating that this and other relevant factors were recognised in the Commission's recommendations.

COMMENTS AND FINDINGS

34. In his letter to the Prime Minister of 15 May Professor Clegg said that the Commission accepted full responsibility for the error in paragraph 63 of the Report. I can understand that the Commission, as authors of the Report, felt it proper to accept that responsibility. But the error derived from information provided to them by OME on the accuracy of which they were entitled to feel they could rely, and the responsibility attaching to the Commission themselves for the error is in my view no more than formal. I am satisfied that they could not reasonably have been expected to possess the detailed knowledge required to detect the error.

35. My inquiry has been into both how the error originally came to be made and why it was not detected before the report was completed and published. I have not concerned myself, except incidentally, with the post-publication period, which falls outside my remit, though I have felt it right to mention what DES and LACSAB have told me about this period.

36. There were three main stages covered by my inquiry:

(a) the period prior to the circulation of the Commission Chairman's paper outlining proposals which formed the basis for their recommendations. This runs from mid-January to 10 March 1980;

(b) the period between then and the completion of the report

and its receipt by the Prime Minister on 1 April;

(c) the subsequent period until publication on 14 April.

37. I start with the first of these periods. My inquiry shows that the original source of the error was a minute written by an HEO of OME, and subsequently supplemented by her orally in response to questioning by her Principal. I have not been able to establish with certainty how the inaccuracy arose but there were several factors which contributed to it, of which perhaps the most important were that the information was obtained by telephone by an officer not expert in the subject matter and not subsequently checked for accuracy. It need not be a matter for criticism when information required is obtained by telephone. The OME, DES and LACSAB all told me that much straight-forward information is give or obtained on the telephone and it would be a waste of effort and manpow to record it always. Moreover, in the present case the information was needed for a paper being prepared for the Commission with some urgency eve though the purpose of the paper was only to canvass possible fall-back positions. On the other hand the telephone can be a hazardous means of trying to get reliable information about highly complex arrangements, whe much can depend on the way a question is put by the person seeking the information or is understood by the person being asked. In such cases it is highly desirable to seek confirmation in writing. It is clear, however, that the HEO who made the inquiry and who, before this reference, had had no experience of teachers' pay matters, was not aware how complex the rules on teachers' incremental credits were. Since I hav not been able to establish what questions were put or to whom they were put, I am not able to judge whether the supplier of the information might reasonably have been expected to warn the HEO of this complexity.

38 The Principal who drafted the paper for the Commission (and who had only recently joined the OME and was similarly unversed in teachers' pay matters) incorporated in it much information that he realised had been obtained piecemeal and hurriedly, including that recorded by the HEO on incremental credits. In submitting it to his Assistant Secretary for approval prior to its reference to Professor Clegg and the Commission he recalls - and I accept his recollection - that he proposed that the comments on the draft of DES should be sought. Had this been done, its

accuracy in detail would have been checked by officials more familiar with the teachers' pay arrangements, and the inaccuracy of what was included about pay increments might have been picked up. His proposal was not adopted, because, serving independent bodies, OME consider it inappropriate to inform Government Departments prematurely of the lines on which any of these bodies may be thinking, while accepting that it is part of their function to ensure that accurate information is provided as the basis for their deliberations. In this case there was the additional consideration that the parties to the negotiation of teachers' pay, of whom DES could be considered to be one, had not been told of a possible change of approach. In any event at the stage at which the draft was prepared, it still seemed most likely that the Commission's original approach, based on job evaluation, would be followed through, in which case the alternative approaches set out in the draft paper would not have been needed and the accuracy of the information it contained would have been irrelevant. All this is understandable, if unfortunate in its results. But what also ought to have been recognised, even at this stage, was that if the Commission should change its view and switch to one of the alternative approaches, verification of all relevant information would be necessary.

39. On 6 March the Commission did decide to discard the job evaluation approach and on 10 March, when they saw copies of a paper prepared by its Chairman himself for the Commission, OME officials became aware of the new approach now likely to be followed. The period between then and 1 April constitutes the second of the stages mentioned in paragraph 36.

40. The new approach advocated in the Chairman's paper was a development of one of the possible alternative approaches which had been considered in the Principal's paper. It took as its starting point the salaries of graduate entrants to schoolteaching but, working on the inaccurate information supplied to the Commission, understated their incremental entitlements. Had the inaccuracy been picked up at any time between 10 March and 31 March, when the report was completed and signed by the Commission, it could have been corrected in time. As it was, it was repeated (with minor drafting changes) in subsequent drafts of the report and finally in paragraph 63 of the report itself.

41. I have no doubt that OME ought to have picked up the error during this period. The main reason for the failure to do so was uncertainty where the responsibility lay for checking the detailed factual accuracy of the information upon which the Commission was relying in the preparati of its report. The statisticians in OME saw it as their duty to verify the calculations contained in a draft report, but not the source information (such as the rules governing incremental scales) from which those calculations were derived. Basic information supplied by the administrative arm of the OME ought in their view to be checked by the responsible Principal. On the other hand the Principal's belief, based (as he said) on his experience elsewhere, was that the statistician would be checking the accuracy of all the figures and source information. The OME Director told me that her view about how responsibility was divided accorded with that of the statisticians and that that was how the office normally operated; that seems to me too a reasonable approach. But it is not laid down in any OME office document. It seems to me that it would be desirable to set down in writing the extent of the responsibilities of the various ections of OME staff. That would at least provide guidance which would be of particular value to new recruits I realise that an exact demarcation would be difficult to define, and to meet the requirements of efficient day-to-day working some flexibility is essential. Such flexibility must, however, be based on good communication so as to ensure, for example, that every single item of factual information which OME provides to the bodies it serves is checked (as is their normal practice) and that the staff together make sure that this is done. This is all the more important since OME staff cannot be expected to be familiar in detail with all the wide range of pay arrangements with which they have to deal. As it was no-one saw it as his duty to make sure that the particular information was in this case checked. The result was that it was not, as it certainly should have been.

42. It has been represented to me that a contributory reason for the failure to detect the error during this period was the Commission's decision not to consult the parties about its new approach, and show them the figures it was using in following this new approach. This, it is said, is in sharp contrast to the full discussions there were during the job evaluation exercise. The Commission was satisfied that it had good reason for its decision, and even if this closed off one avenue by which

the error might have been detected I do not think that this detracts from the clear responsibility which in my view rests with the OME for the failure to detect it.

43. During the third of the stages mentioned in paragraph 36, that is between 1 April and 14 April when the report was published, copies were available at DES as well as OME. Since they had not previously detected it, I would not expect OME to have detected the error during this period And in DES, for reasons which in my view are understandable enough, copies were, on the instructions of the Secretary of State and the Permanent Secretary, supplied to only a very small number of senior officials.

44. DES had had no prior knowledge of the approach finally adopted by th Commission. They had not been shown the OME Principal's paper circulated to the Commission on 11 February, nor the Chairman's paper of 10 March, nor any of the relevant sections of the draft report. Of the senior officials to whom copies of the report were limited between 1 April and 14 April one was not sufficiently familiar with the detailed operation of the teachers' pay system to be able to detect the error. The other had enough background knowledge to have made it conceivable th he might have detected that paragraph 63 was at least in part incorrect, but it would have been a little surprising if a senior officer such as he was had picked up that inaccuracy from a report filled with facts and figures at a time when he was preoccupied with discussions about the handling of the pending Burnham negotiations and additional matters arising at the time of the union conferences. The size of the award, which was within the range in which they had expected it to fall, gave neither any cause to suspect that an error might have occurred.

45. To sum up, I have mentioned a number of circumstances which help to account for the appearance of the error in paragraph 63: that the two OME officers most directly concerned had no previous experience of teachers' pay or knowledge of the complexity of the incremental rules applying to it; that because of a sense of urgency the relevant information was obtained by telephone; that at the time it seemed more likely than not that the information would not be used; and that on the Commission's decision no outside body was brought into consultation in the working out of its final approach. In the final analysis, however,

I am left in no doubt that none of these circumstances absolves OME from prime responsibility for the error. Even if it was not felt necessary to check the information initially, there was a period of three weeks after the time it became clear that entitlement to incremental credits was a factor in the new approach during the course of which it should certainly have been checked and was not. The omission resulted from an inexcusable confusion in this case within the office over whose responsibility it was to carry out the verification. I do not criticise any one individual for this, but my inquiry has revealed the need for clarification and communication to staff of the extent of their responsibilities.

46. I think it right to say, in conclusion, that to the best of my knowledge this is the first time during the nine years of existence of the OME that a mistake of this nature and magnitude has occurred in a report of any of the bodies they serve. Accuracy is a vital necessity in their work for the different bodies they serve, and all the staff I have met have expressed to me their concern and distress that, on this occasion, so serious an error should have been made. I have no doubt that they are resolved that there should not be a repetition.

Alan Marre

SIR ALAN MARRE
26 JUNE 1980

ANNEX 1

LIST OF THOSE INTERVIEWED IN THE COURSE OF THE INQUIRY

Standing Commission on Pay Comparability

Professor H Clegg

Office of Manpower Economics

Miss J Orr
Mr D Brown
Mr H Jones
Mr D Alexander
Mr D Fine
Mrs N Kershaw

Department of Education & Science

Mr R Walker
Mr E Evans
Mr L Smith
Miss B Lincoln
Ms C Grimes
Mrs H Smith

Local Authority Conditions of Service Advisory Board

Mr A Gronow
Miss V Fagg
Mr M Walker

EXTRACT FROM SCALES OF SALARIES FOR TEACHERS IN PRIMARY AND SECONDARY SCHOOLS, ENGLAND AND WALES 1979

PART II: QUALIFIED TEACHERS

.....

3. Teachers on Scales 1 to 4 (including 2(s) and 3(s))

(a) These teachers shall be paid on whichever is the appropriate scale of the scales set out in paragraphs 1 and 2 of Appendix I

.....

(c) The point of entry to these scales shall be determined in accordance with Appendix III and the annexes thereto.

APPENDIX III: METHOD OF DETERMINING THE POSITION OF A TEACHER ON THE APPROPRIATE SALARY SCALE

.....

DETERMINATION OF STARTING PAY

7. Incremental credit in all salary calculations under paragraphs 9 to 20 below, inclusive, shall be rounded up to the next higher incremental point on the appropriate scale unless they result in an exact incremental point.

.....

Qualified Teachers, including Senior Teachers, below Deputy Head Teachers

10 (1). A teacher other than one to whom sub-paragraph 10 (2) or 10 (3) below apply, who is placed on scale 1 on or after 1 April 1979 shall, subject to the maximum of the scale not being exceeded, receive salary calculated as follows:

(a) the minimum of the scale to which shall be added as appropriate:

(i) one increment where the teacher holds any of the qualifications, or has satisfactorily completed any of the courses, satisfying the conditions set out in Annex D of this appendix; plus

(ii) two increments where the teacher is entitled to be classed as a graduate under the conditions set out in Parts I and II of annex E to this appendix, or four increments where the teacher is entitled to be classed as a good honours graduate under the conditions set out in parts I and III of annex E; plus

(iii) incremental credit in respect of study, training, or research or of previous service or experience in accordance with paragraph 12 below; or

.....

12 (1). Reckonable increments for study, training, research teaching service or experience allowed under Annex A, B or C to this appendix shall be treated as follows:-

.....

(b) subject to sub-paragraph (2) below, reckonable increments in respect of periods after 1 April 1971 shall be valued at the same rates as increments on Scale 1 according to the incremental pattern of that scale, with proportionate amounts for twelfths of increments;

(c) the sum of the amounts under sub-paragraphs (a) and (b) above shall be added to the salary on Scale 1 for the purpose of paragraph 10 (1) (a) (iii) above.

ANNEX A TO APPENDIX III: INCREMENTAL CREDIT FOR STUDY TRAINING AND RESEARCH

1 (1). Incremental credit shall be given where provided for in Appendix III for study, training and research. Teachers who after the age of 18 years, have undertaken and satisfactorily completed not less than four years' full time study, training or research, excluding any period of repetition, shall be paid one increment for each year of the study, training or research in excess of three years, subject to a maximum of three increments

.....

ANNEX D TO APPENDIX III: QUALIFICATIONS AND/OR COURSES ENTITLING A QUALIFIED TEACHER TO THE PAYMENT SPECIFIED IN APPENDIX III

The following qualifications and/or courses shall, where provided in Appendix III, entitle a qualified teacher to the payment specified in Appendix III.

.....

7. The satisfactory completion of one of the following courses in the United Kingdom of Great Britain and Northern Ireland:

(i) A course of initial training in teaching as defined by Regulation 6 of the Training of Teachers Regulations 1967 (or the corresponding provisions of the appropriate regulations in force from time to time) of at least one year's full-time duration, or the equivalent part-time.

(ii) A full time postgraduate course of training in teaching at a University Department of Education

(iii) A university postgraduate Certificate or Diploma in Education obtained as a result of a part-time course of study

(iv) A full-time course at a College of Education leading to the status of Qualified Teacher provided that, in each case, the teacher is entitled to be classed as a graduate or good honours graduate for salary purposes and the course does not form part of the qualification entitling him to be classed as a graduate under the provisions of Part II of annex E or a good honours graduate under the provisions of Part III of annex E to this appendix

8. A degree course undertaken concurrently with an approved course of teacher training at a University, University College, College of Education College or Institute of Higher Education or Polytechnic Education Department/Faculty in the United Kingdom of Great Britain and Northern Ireland, provided that the teacher obtains the degree and satisfactorily completes the training course.

.....

ANNEX E TO APPENDIX III: QUALIFICATIONS ENTITLING A QUALIFIED TEACHER TO BE CLASSED AS A GRADUATE OR A GOOD HONOURS GRADUATE FOR SALARY PURPOSES

Part 1: General

1. Teachers who have passed the requisite final examination and complied with the other conditions for the award of a University degree are entitled to be classed as graduates or good honours graduates, whichever is appropriate, even though the degree has not been conferred upon them by the University.

2. In cases where the qualifications listed in Parts II and III of this annex are subject to the condition that the teacher has attained an acceptable standard of general education, this standard, in terms of the General Certificate of Education, shall normally be that which is accepted for candidates seeking admission to courses of initial teacher training under the Further Education Regulations 1975. Other qualifications may, however, in special cases be accepted if approved by the Department of Education and Science for the purpose.

3. A period of professional experience which is a requisite part of a qualification entitling a teacher to be classed as a graduate for salary purposes (see paragraphs 15, 16, 19, 20, 52, 53, 55, 59, 70 and 75 of Part II of this annex), is not on that account ineligible to be reckoned for increments or salary provided that not more than two increments may be granted in respect of such period. In respect of teachers who held the qualfication and were in service on 31 March 1945, teaching service may be reckoned towards the period of requisite professional experience. Increments allowed under this paragraph are subject to the overriding limits of paragraph 1 of annex B of Appendix III.

Part II: The following Qualifications shall entitle a Qualified Teacher to be classed as a Graduate for salary purposes

Degrees

1. Degrees (other than honorary degrees or degrees described in Part

III of this annex as entitling a teacher to be classed as a good honours graduate) of:

(i) English, Welsh, Scottish and Irish Universities

.....

(NOTE: There then follow 9 pages of qualifications conferring graduate status)

Part III: The following qualifications shall entitle a Qualified Teacher to be classed as a Good Honours Graduate for salary purposes

1(1). A First Class Honours degree or a Second Class Honours degree of a University in the United Kingdom of Great Britain and Northern Ireland or in the Republic of Ireland or a higher degree of such a University obtained by examination or as a result of research work or postgraduate achievement.

(NOTE: There then follow 2 pages dealing with other forms of qualification as a Good Honours Graduate).

A 2

MS PRIME MINISTER

The course proposed by Mr Biffen would be immensely controversial

MS

9/7

Treasury Chambers, Parliament Street, SW1P 3AG

Rt Hon Mark Carlisle QC MP
Secretary of State
Department of Education and Science
Elizabeth House
York Road
London SE1 7PH

3 July 1980

Dear Mark,

TEACHERS' PAY

(both attached)

Thank you for sending me a copy of your minute of 10 June to the Prime Minister. I have also read George Younger's letter dated 17 June, reporting the latest developments in Scotland.

It will be several weeks before the arbitration hearings for England and Wales have taken place and the arbitrators have come to a decision. But I do not think it is too early for us to start considering our reaction if, as is likely on past experience, the arbitration award comes out higher than the local authority employers' final offer of 9.2%.

To condone an award above this level would risk local authorities blaming the Government for the financial consequences, including any resulting cuts in services or increases in rates, that might prove necessary in order to accommodate the additional cost. The Government's determination not to increase the RSG cash limit undoubtedly acted as a powerful constraint on the local authority associations' representatives, particularly in view of the high proportion of local authority expenditure allocated to teachers' pay. The local authority representatives have already made it clear to us that a high pay award would automatically require a lower level of education services; you will remember that they stressed this at our meeting with them on the 23 April.

There is already a serious risk that current expenditure on local government services will exceed planned levels in this financial year. We are currently considering what action will be necessary to bring local authorities' current expenditure under control if the response to our call for revised budgets is unsatisfactory.

In these circumstances I feel we should not implement an award above 9.2%. I believe this inevitably flows from public expenditure considerations, with all its implications for other local authority activities.

It is therefore my view that, if the award is above 9.2%, we must reckon on using the two-House Resolution procedure. You will recall I mooted this possibility in my letter of June 2nd.

I am copying this letter to the Prime Minister, all members of E and E(EA), the Chief Whips in both Houses, Patrick Jenkin, Norman St John Stevas, Sir Michael Havers and to Sir Robert Armstrong.

Yours

John Biffen

JOHN BIFFEN

N

Education

ELIZABETH HOUSE,
YORK ROAD,
LONDON SE1 7PH
01-928 9222

FROM THE SECRETARY OF STATE

The Rt Hon James Prior MP
Secretary of State for Employment
Caxton House
Tothill Street
SW1

3 July 1980

Dear Jim,

MACHINERY FOR DETERMINING THE PAY OF SCHOOL AND FURTHER EDUCATION TEACHERS IN ENGLAND AND WALES

Particularly in the light of the difficulties experienced in trying to relate teachers' conditions of service to the pay recommended first by Houghton and now by Clegg, I am coming under very strong pressure from the local authority associations to repeal or amend the unique provisions of the Remuneration of Teachers Act 1965 (RTA). I attach a brief summary of the Act's provisions and import.

My own view is that it would be highly desirable to establish unified machinery which dealt with both pay and other conditions of service and so prevented the teachers from receiving large pay awards without any trade-off on conditions. Following discussions between officials, I propose to meet representatives of the local authority associations before the recess. I shall of course consult colleagues about any firm proposals which emerge, but you may like to be aware beforehand that one of the questions at the heart of my discussions will be our present veto on the size of offers made by the Management Panel (which rests on a voluntary concordat and not statute). I would not propose to make any concession without collective discussion and would not intend to recommend any change to colleagues unless it was part of a generally satisfactory package.

I am sending copies of this letter to the Prime Minister, members of E(EA), Willie Whitelaw, Patrick Jenkin, Michael Havers and Sir Robert Armstrong.

Yours ever

Mark

MARK CARLISLE

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PART 2 begins:-

S/S Education to S/S Emp 3.7.80

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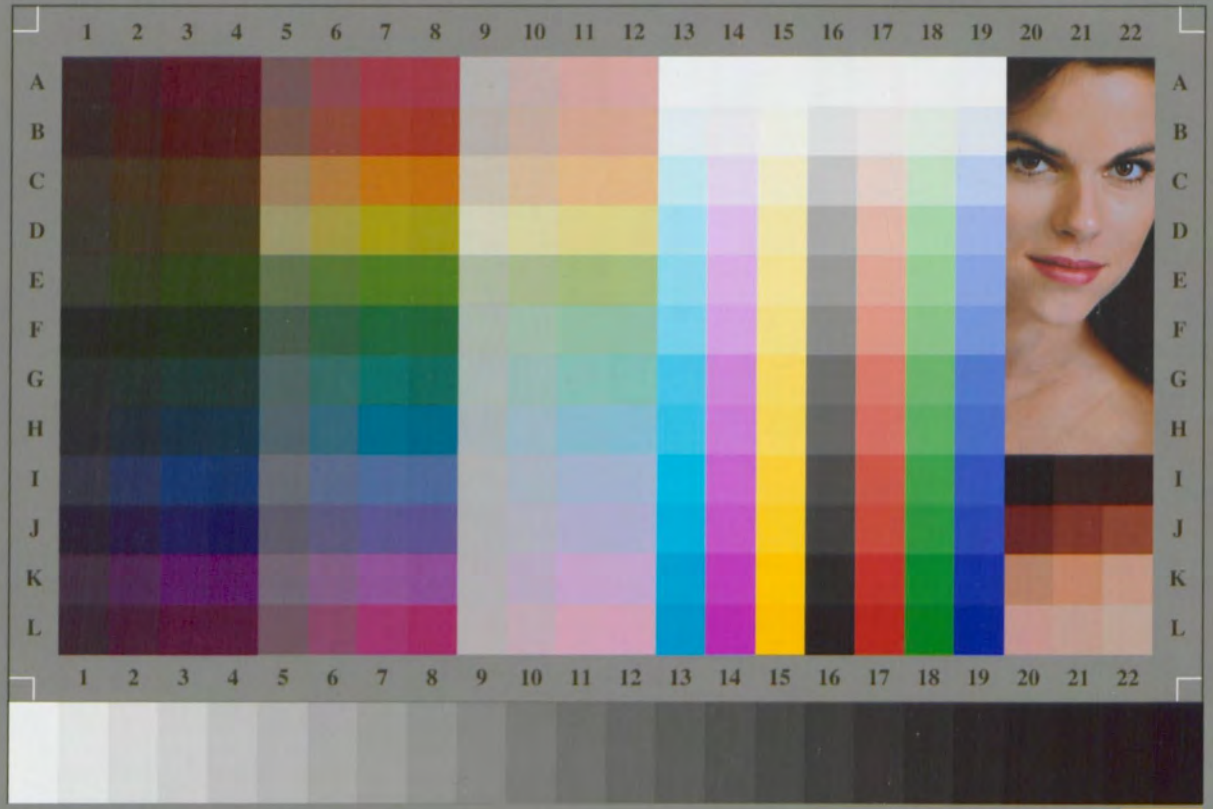

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