Education VB

File

cc: HMT
CO, HMT
D/M
SO
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NIO
LOD
LPO

DOE
DHSS
CSL
CO
bc: John Vereker

Subject

cc MASTER

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

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d/c SY

MCS

DEPARTMENT OF EDUCATION AND SCIENCE

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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 of 17/3 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.

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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