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PRIME MINISTER

**TEACHERS' PAY AND CONDITIONS: GREEN PAPER**

1. We have now agreed upon the Chairman of the Interim Advisory Committee on Teachers' Pay and Conditions. I wrote to colleagues earlier this week about the rest of the membership and would hope to be in a position to announce the full membership of the Committee shortly.
2. The next action after the appointment of the Interim Advisory Committee will be the publication of a Green Paper dealing with long term arrangements for determining school teachers' pay and conditions.
3. I have made it clear to the teacher unions that it is entirely unrealistic for them to argue that new permanent arrangements should be in place by April 1988. Hence the importance of the announcement about the membership of the Interim Advisory Committee to make absolutely clear that the arrangements approved by Parliament in the Teachers' Pay and Conditions Act 1987 will apply as far as April 1988 is concerned.
4. We made clear commitments in the manifesto that the Interim Advisory Committee arrangements would be temporary, we wanted an effective and permanent machinery for settling teachers' pay in which the interests of all parties would be recognised, and we would produce a Green Paper to provide a basis for wide consultations with a view to establishing new and effective machinery. In view of the concerns expressed by both teachers and parents about the pay determination arrangements for teachers during the election campaign, I do not think that we should long delay issuing a Green Paper. Our credibility will depend on keeping open the



prospect of new permanent machinery being in place for April 1989.

5. The Labour dominated local authority associations and most of the teacher unions are together trying to negotiate arrangements for a National Joint Council which, despite some concessions, will be fairly similar to the discredited Burnham arrangements. I judge that it will be very important to broaden the public debate beyond this narrow proposal.

6. I have therefore prepared the attached Green Paper which looks at a range of critical issues and sets out a detailed series of questions that need to be addressed in considering pay determination machinery for the longer term. At this stage I want a lengthy discussion to take place and avoid, as far as possible, support building up for any one particular alternative until there has been a breathing space and some initial experience has been gained of the Interim Advisory Committee machinery.

7. Therefore the Green Paper aims to see that the complex range of issues are thoroughly addressed. It does not advocate any particular solutions: this would immediately invite a range of objections to such solutions and focus the main interests in support of a negotiating model which is not dissimilar to Burnham. Our aim should be to elicit a spread of reactions to the questions set out in the Green Paper in the light of which we would prepare our own proposal for arrangements to succeed those set up by the Teachers' Pay and Conditions Act 1987.

8. The time for us to reach decisions within Government will be following consideration of the responses to the Green Paper and to the initial work of the Interim Advisory Committee. It would be premature for us to try to come to conclusions now.

9. But my provisional thoughts are that despite the pressures that there will be from most of the teacher unions and the local authority employers I do not think we can return to a negotiating committee or joint council which is similar to the Burnham machinery. The history of pay negotiations for teachers demonstrates the competing



political interests of those on the management side and the effects of inter-union rivalries which have meant that Burnham failed to deliver settlements meeting necessary requirements. It is just possible that the eventual right solution may be some modification of the Interim Advisory Committee and its associated consultative processes.

10. I think that the Government will be in danger of an under-current of criticism if it does not publish a Green Paper by the middle of September. I would like to be in a position to publish the Green Paper before the end of July if over the next 2 or 3 weeks that becomes tactically desirable. I would therefore be grateful to have ~~any comments on the attached text of the Green Paper by Wednesday 15 July.~~ If colleagues consider it necessary we could of course discuss the draft Green Paper at E(EP) on that day.

11. I am copying this minute to all members of E(EP), the Secretary of State for Northern Ireland and Sir Robert Armstrong.

K.S.

KB  
Department of Education and Science

8 July 1987



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DRAFT GREEN PAPER

FUTURE MACHINERY FOR DETERMINING TEACHERS' PAY AND CONDITIONS OF SERVICE

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## CHAPTER 1: INTRODUCTION

1.1 Over a number of years it has increasingly been considered that the Burnham arrangements for determining pay and conditions for school teachers needed to be replaced. The Teachers' Pay and Conditions Act 1987 provided for interim arrangements. The Government intends to move to permanent arrangements. The Secretary of State for Education and Science said in the House of Commons on 5 May:

"the Interim Advisory Committee will provide us with a breathing space to work out effective permanent machinery. I have made it clear that I do not want to be the determiner of teachers' pay. I and my colleagues intend to enter into detailed discussions later in the year with all those with an interest including the teacher unions, the local authority associations and the churches."

1.2 The Secretary of State gave a commitment to publish a Green Paper setting out key issues and questions about the most appropriate way of constructing effective permanent machinery for determining pay and conditions. It is the Government's view that a careful consideration of the issues and questions raised in this Green Paper will provide a crucial basis for decisions about the longer term.

1.3 The Green Paper sets out in Part I the history of pay determination arrangements for school teachers and in Part II identifies considerations relevant to the future. The chapters in Part II put issues into the broad context of requirements for the future (Chapter 4), the wide range of different interests (Chapter 5) and the changing context resulting from various policy initiatives (Chapter 6).

1.4 Chapter 7 sets out a range of issues to be addressed about new machinery. It is not intended at this stage to be prescriptive. Various alternative approaches to different issues are identified. It is the Government's view that in the breathing space provided by the Interim Advisory Committee it is important that each question is considered carefully with the aim of finding a long term solution that is fair to teachers, parents, tax payers, rate payers and to the children.

1.5 Chapter 7 identifies 2 main elements to the determination of pay and conditions for teachers, namely the role of negotiation and the contribution of an independent role. The questions concerning negotiation arise from the various different interests, including the large number of teacher unions, which have a concern with teachers' pay and conditions. There has always been an independent element in arrangements for teachers' pay. A key issue is the extent to which there should be a greater or lesser role for an independent element in the future.



**CONFIDENTIAL****PART I: HISTORY OF TEACHERS PAY ARRANGEMENTS IN ENGLAND AND WALES****CHAPTER 2: PAY MACHINERY SINCE 1919**

2.1 In considering future arrangements for determining teachers' pay and conditions of employment, it is important to look at past arrangements. This Chapter summarises the development of teachers' pay machinery from 1919.

**NEGOTIATING MACHINERY**

2.2 In 1919, against a background of threatened local strike action, a Standing Joint Committee (SJC) was set up, chaired by Lord Burnham, bringing together representatives of the local authorities and elementary (primary) school teachers in a national forum. The next year a second SJC was set up covering secondary schools. The SJCs were non-statutory bodies and their reports were voluntary agreements.

2.3 At later dates further committees were set up to deal with teachers in Technical Schools, Colleges of Education and Agriculture Institutes. These later became the Burnham Further Education Committee. This chapter deals only with developments in the primary and secondary committees. In 1938 the Committees formally changed their names to the Burnham Committees in memory of their first chairman.

2.4 From 1919 onwards, the committees had separate management and teachers' panels. Each panel spoke with a single voice reflecting the panel's majority view. Negotiations were conducted under an independent Chairman, and any settlement had to have the agreement of both panels.

2.5 The Primary SJC made a Provisional Minimum Scales Report in 1919. The scales agreed became standard scales in 1920, and in the same year standard

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scales were agreed for secondary schools. These scales remained in force with minor changes until 1945.

2.6 Section 89 of the Education Act 1944 gave the Burnham Committees a statutory basis. The Act required the Committees to submit to the Minister of Education "such scales of remuneration for teachers as they consider suitable". The Minister was empowered to implement their recommendations by Order if he approved. No provision was made for the Minister to modify the Committees' recommendations before implementation; nor was any procedure established for resolving disagreements between the Committee and the Minister.

2.7 In 1944, the two school Committees were combined since the jobs of teachers in the two sectors were considered to be similar, and in order to simplify the Burnham system.

2.8 The limitations of the 1944 Act became clear in 1959 when the Minister did not at first approve the Committee's recommendations. On this occasion he did decide at a later stage to approve its recommendations. In 1961, there was another disagreement, and the Committee eventually submitted a revised report which was accepted. However, in 1963, the Committee's report, which benefited teachers at the bottom of the basic scale at the expense of better qualified and more experienced teachers, was rejected by the Minister and it proved impossible to agree a compromise.

2.9 The Government decided to introduce legislation to put into effect its pay structure and the result was the Remuneration of Teachers Act 1963. This Act was a temporary measure giving the Minister powers to introduce his own salary scales by Order but only until March 1965.

2.10 In 1965, Section 89 of the 1944 Act was replaced by the Remuneration of Teachers Act 1965. Under this legislation the Secretary of State was represented directly on the Burnham Committee for the first time and agreements reached in the Committee would come into effect without further opportunity for Government intervention. The Secretary of State was obliged to implement the Committee's recommendations, which then became binding on local education authorities. The Act also made provision for the Secretary of State to make



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arrangements for arbitration following consultation with the bodies represented on the Committee. The arrangements then made provided that where an agreement could not be reached, and one panel so requested, that matter was to be referred to arbitration if the independent Chairman considered that there had been full opportunity for discussion.

2.11 Under the 1965 Act the arbitrators' recommendations were then treated as if they were recommendations of the Committee and implemented unless both Houses of Parliament resolved that national economic circumstances required that they should not be put into effect. Only then was the Secretary of State, after consultation with the Committee, empowered to make his own determination. In 1981, the Secretary of State, after consultation, changed the arrangements for arbitration so that arbitration was available only when both panels agreed to such a reference.

## ROLE OF GOVERNMENT, LOCAL AUTHORITIES AND TEACHERS

2.12 Since 1919, the arrangements for determining teachers' pay have recognised the role of three parties: the Government, the local authorities, and the teachers. There has also been an independent chairman.

### The Government

2.13 Until 1944, the role of the Government was restricted to the acceptance, for the purposes of grant support, of expenditure by local authorities on teachers' salaries not exceeding that resulting from the application of Burnham scales. The effect of this was to discourage payments to teachers above the Burnham scales, but also to encourage local authorities to bring pay up to the Burnham rates.

2.14 Under the 1944 Education Act, the Minister of Education was empowered to make Orders requiring local authorities to pay teachers according to Burnham scales, but the Government had no representation on the Burnham Committee. The Minister could only put into effect the recommendations of the Committee as they were reported, or decline to do so.



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2.15 For a short period following the Remuneration of Teachers Act 1963, the Minister was able to introduce new salary scales without recommendations from the Committee. Under the Remuneration of Teachers Act 1965, the Government was represented on the Committee. The Secretary of State had the duty to decide which local authority and teachers' bodies would be represented on the Committee, and by how many representatives. The Secretary of State also had a duty to publish a document setting out the scales and provisions resulting from the Committee's agreed recommendations, and to make an Order directing that the document be brought into effect.

2.16 The Secretary of State was also required to make arrangements for arbitration. The Act provided for the appointment of arbitrators by the Minister of Labour, which was subsequently changed in 1975 to appointment by the Advisory, Conciliation and Arbitration Service (ACAS). The Secretary of State was required to treat the recommendations of arbitrators as if they were recommendations of the Committee, unless both Houses of Parliament resolved that national economic circumstances required that they should not be put into effect.

2.17 No limitation was placed by the Act on the number of representatives whom the Secretary of State could appoint to represent him. From 1965, he appointed two people to represent him on the management panel of the Committee. However, an agreement, called the 'concordat' was made between the local authorities and Government under which no claim could be accepted or offer made if the Secretary of State objected to the total cost involved, it being understood that the Secretary of State would not determine any limit of total cost at the outset of negotiations. The concordat provided that the Secretary of State's representatives had a weighted vote of 15 on other matters. The weighted vote was not a majority (see table A below) and the Government's views <sup>could</sup> not prevail in the management panel unless it had the support of some of the local authority members.

2.18 The validity of the Government having control of the global cost of any agreement was recognised by both of the major political parties. Before the Remuneration of Teachers Act 1965 received Royal Assent the then Secretary of State for Education said in Parliament, on 20 November 1964 during the Committee stage consideration, "I doubt whether any Government in any set of circumstances



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could put itself in a position where it could hand over the power on the global sum to someone other than itself."

2.19 The details of the concordat were discussed openly in Parliament during the passage of the 1965 Act. There were indeed suggestions that the concordat should have been written into the Act. However, it was decided that it should be a voluntary agreement so that if both the Government and the local authority associations wanted to alter it at a subsequent date they could do so without new legislation. In 1985, a majority of local authority representatives decided to end the concordat without the Government's agreement.

## Local Authorities

2.20 Until 1965, local authority representatives formed the whole of the management side. In 1965, the local authority representatives were joined on the management panel by the representatives of the Secretary of State. The bodies represented from 1919 on both the primary and secondary Committees were the County Councils Association (which became the Association of County Councils following local Government reorganisation in 1974), the Association of Municipal Corporations and the London County Council -from 1965 the Inner London Education Authority -(both subsumed in the Association of Metropolitan Authorities in 1974) and the Association of Education Committees. In 1944, when the Committees were combined, the Federation of Education Committees (Wales and Monmouthshire) (later the Welsh Joint Education Committee) also gained representation. From 1974, the Association of Education Committees ceased to be in membership of the management panel, and the Inner London Education Authority did not continue to have separate representation. These changes followed from the reorganisation of local Government referred to above.

2.21 Table A shows the distribution of seats and votes on the management panel from 1944 to 1985. The names shown are those used in the 1980s. Since 1974, the relative voting strengths of the local authority bodies represented has been determined by reference to the population covered by the constituent authorities: there has been no change in the membership figures since then.



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TABLE A: REPRESENTATION ON MANAGEMENT PANEL OF BURNHAM PRIMARY AND SECONDARY COMMITTEE, 1944 TO 1985

	1944	1965	1974
Association of County Councils	9	9	13
Association of Metropolitan Authorities	6	6	10
Association of Education Committees	6	6	-
Inner London Education Authority	3	3	-
Welsh Joint Education Committee	2	2	2
Department of Education and Science(1)	-	2(15)	2(15)
<b>TOTAL(2)</b>	<b>26</b>	<b>28(41)</b>	<b>27(40)</b>

Notes: 1. Figures in brackets show DES weighted vote under the concordat  
 2. Figures in brackets show total of votes available under the concordat

2.22 Over time, differences of view between the ACC and AMA became less important than the political make-up of the management panel. In 1985, following the local Government elections, a change in the political balance of the local authority representatives was followed by the unilateral ending of the concordat.

## Teachers

2.23 The make-up of the teachers' panel on the Committee changed more over the years. In 1919, the National Union of Teachers were the sole representatives of the teachers on the primary committee, while on the secondary committee representation was divided between the NUT which held 5 seats and the four secondary unions, known as the 'Joint Four', which held 20 seats between them. The Joint Four was eventually superceded by the Secondary Heads Association and the Assistant Masters and Mistresses Association.

2.24 In 1944, when the primary and secondary committees were combined, the NUT were given 16 representatives, a majority of the teachers' panel. The Association of Teachers in Technical Institutions (later NATFHE) had four representatives. The Joint Four were given 6 representatives and <sup>thus</sup> lost much



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of the influence on secondary teachers' pay which they had held when the committees were separate.

2.25 The following table shows the distribution of seats on the teachers' panel from 1944 to 1985. The names shown are those used in the 1980's. The years shown are the only years in which changes were made to the composition of the panel.

TABLE B: REPRESENTATION ON TEACHERS' PANEL OF BURNHAM PRIMARY AND SECONDARY COMMITTEE, 1944 to 1985.

	1944	1962	1963	1980	1981	1985
National Union of Teachers	16	16	16	16	16	13
Secondary Heads Association	2	2	2	1	1	1
Assistant Masters and Mistresses Association	4	4	4	4	4	4
National Association of Teachers in Further and Higher Education	4	4	2	1	1	-
National Association of Head Teachers	-	1	1	2	2	2
National Association of Schoolmasters/Union of Women Teachers	-	2	3	6	7	7
Professional Association of Teachers	-	-	-	-	1	1
<b>TOTAL</b>	<b>26</b>	<b>29</b>	<b>28</b>	<b>30</b>	<b>32</b>	<b>28</b>

2.26 Under the 1944 Act, the membership of the Committee was subject to the approval of the Minister. The National Association of Schoolmasters had been campaigning since the 1920's for representation but this was not given in 1944. However, their membership continued to grow and in 1962 they gained 2 seats on the teachers' panel. At the same time, the National Association of Head Teachers, another growing organisation, gained one seat.



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2.27 Almost immediately, the NAS challenged the voluntary agreement later written into the Committee's "Rules of Procedure" that the two panels of Burnham each spoke with a single voice, claiming that the views of minorities were not heard. In 1963, the NAS gained a further seat on the panel.

2.28 The 1965 Act required the Secretary of State to determine the bodies represented on the Committee and the number of representatives which they should have, and enabled him to vary the membership from time to time. For a number of years no changes were made but more recently the make-up of the teachers' panel the Committee has been significantly changed (see Table B).

2.29 In reviewing the make-up of the teachers' panel, the major considerations have been the number of members which the organisations have whose pay is covered by the Burnham primary and secondary arrangements, and the representation of distinct interests, such as head teachers. Reviews which led to the decisions summarised below were all based on detailed examination of membership numbers.

2.30 Following a review completed in 1980 the NAHT gained one additional member and the NAS/UWT an additional three. At the same time NATFHE lost one of its two seats.

2.31 In 1981, the Secretary of State made two further changes. The NAS had become the National Association of Schoolmasters/Union of Women Teachers in 1978 and now gained a seventh seat, and the Professional Association of Teachers was given one seat.

2.32 Following this change, the NUT had exactly half the seats on the panel rather than an overall majority. In 1985, a further review was carried out and two more changes were made to the panel. Firstly, NATFHE lost its remaining seat on the grounds that its membership did not include teachers whose salaries were negotiated in the Committee. Secondly the NUT was found to have relatively fewer members among teachers and its seats were reduced to thirteen of the new total panel of 28.



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## CHAPTER 3: PAY OUTCOMES SINCE 1974

3.1 Table C below shows briefly the pay outcomes from 1974 to 1986. The following paragraphs give more detail of pay negotiations over the years.

TABLE C: OUTCOME OF PAY NEGOTIATIONS, 1974 to 1986

DATE OF SETTLEMENT	INCREASE %	TYPE OF SETTLEMENT
1 April 1974	8.00	Negotiated settlement —
1 May 1974	27.00	Houghton award
1 April 1975	22.30	Arbitration award
1 April 1976	8.30	Arranged under pay policy
1 April 1977	3.80	Arranged under pay policy
1 April 1978	9.90	Arranged under pay policy
1 April 1979	9.30	Referred to Clegg Commission
1 January 1980	8.95	First half of 'Clegg' award
1 April 1980	12.00	Arbitration award
1 September 1980	8.95	Second half of 'Clegg' award
	2.50 to 4.00	Arbitration award
1 April 1981	7.50	Negotiated settlement —
1 April 1982	6.00	Arbitration award
1 April 1983	4.98	Negotiated settlement —
1 April 1984	5.10	Arbitration award
1 April 1985	6.90	ACAS intervention
31 March 1986	1.60	ACAS intervention
1 April 1986	5.70	Negotiated interim settlement —

*So, 4 negotiated settlements out of 17/18.*



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3.2 In 1974, a settlement giving an average increase of 8 per cent was negotiated within the Government incomes policy. Later that year the Houghton Committee was appointed and a retrospective increase worth 27 per cent was awarded from 24 May that year. The Houghton award included changes to the pay structure, which restored differentials for heads and deputies, merged the then Scales 2 and 3, rationalised incremental steps, and provided for a greater number of promoted posts in primary and middle schools.

3.3 In 1975 no agreement could be reached, and an increase of 22.3 per cent was awarded under arbitration. From 1976 to 1978, teachers' pay increases were governed by the Government's pay policies. In 1978, industrial action was threatened, but not widely taken.

3.4 In 1979 some of the teacher unions took industrial action which they described as withdrawing goodwill and a 9.3 per cent increase was accepted on condition that pay would be referred to the Standing Commission on Pay Comparability. Against the wishes of the teacher unions, the Government invited the Commission, which was chaired by Professor Hugh Clegg, to undertake a study of teachers' pay in the light of their terms and conditions of service. In 1980, teachers received their 'Clegg' award and adjustments agreed by arbitration to account for the fact that the Commission's award was calculated on April 1979 salaries.

3.5 In 1981, there was a negotiated 7.5% settlement. In 1982, the teachers panel rejected an offer of 3.4 per cent and again some of the unions withdrew goodwill until the settlement was referred to arbitration. A 6 per cent increase was awarded.

3.6 In 1983, there was a negotiated 4.98 per cent settlement. It was also agreed to set up a committee which was called the Joint Salary Structure Working Party which would examine (but not negotiate about) a full range of data relevant to teachers' salary negotiations.

3.7 In 1984, negotiations failed to yield a settlement. Some teachers again withdrew goodwill. The employers suggested that negotiations should be linked to discussion in the Joint Salary Structure Working Party and that a new



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structure and improved promotion could be agreed in return for an obligation for teachers to spend specific amounts of time preparing and marking work, and to undertake various non-teaching activities. This was unacceptable to the teachers' panel and the negotiations were again referred to arbitration. The arbitrators were asked only to recommend on a pay increase and not on teachers' salary structure or responsibilities. An award of 5.1 per cent, only 0.6 per cent higher than the employers' last offer, was made.

3.8 In October 1984 the teachers' panel submitted their claim for 1985. It called for a minimum increase of £1,200, estimated to add 12 or 13 per cent to the pay bill, and a new simplified main scale of up to £15,250 plus responsibility allowances which would provide up to £2,400 on top of the basic scale. The NUT and NAS/UWT made it clear that they would be ready to take industrial action if satisfactory progress was not made on the claim.

3.9 In November, the employers responded in the Joint Salary Structure Working Party with a proposal including a new basic salary scale rising to £11,800, contracts stipulating a maximum working year and obligations on teachers to undertake lunchtime supervision and to provide cover for absent colleagues, and to participate in an appraisal system. Discussions broke down when the NUT walked out in December 1984.

3.10 A further meeting of Burnham was arranged for 11 February 1985. On 6 February the NUT withdrew goodwill and cover for absence. The teachers' panel proposed that pay and conditions be discussed in separate forums. This was rejected by the employers. Following a ballot, the NUT began 3-day strikes on 26 February. The NAS/UWT called a half-day strike on the same day, withdrew goodwill, and began selective strike action from 4 March.

3.11 On 20 February the management panel proposed arbitration on a 4 per cent pay offer. On 28 February both panels accepted an invitation from ACAS to informal talks. This initiative was overtaken when the management panel decided to seek informal discussions about a further meeting of Burnham. The teachers agreed to a Burnham meeting on the understanding that only pay should be discussed.



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3.12 The Government said in May that no additional money was available that year but that extra money would be available in 1986 if an agreement in principle could be reached by October 1985 on progress towards the Government's objectives. The Government envisaged an agreement requiring employers to promote more teachers to the higher salary scales in the light of the quality of teachers' work and the demand for their skills and qualifications elsewhere. The Government also said that it would be helpful if there were a generally accepted view about what should be regarded as the extent of teachers' contractual responsibilities and that additional resources for midday supervision costs could also be made available for 1986. The employers offered 5% and arbitration but the unions rejected both.

3.13 Following the local government elections of May 1985, the political balance of the local authority representatives changed, and the 'concordat' was unilaterally ended by the local authority associations. In July the management panel made an offer of 5 per cent backdated to April plus an additional 1 per cent in November and the merging of the two lowest scales. The offer was conditional on acceptance by the unions of future discussions on a new salary structure including the merging of Scales 1 and 2 and reformed conditions of service. This was rejected, and the NUT warned that strikes would continue in the Autumn term.

3.14 In July, the management panel again improved their 1985 offer to include an additional increment for all teachers on top of their scale at the end of March 1986. This was also rejected and the unions resumed strike action. In August the Secretary of State announced that the additional money which was conditionally made available amounted to £1,250 million, spread over the 4 years from April 1986. He also repeated that the money was available only in return for acceptable progress towards the Government's objectives, namely a clear definition of the range of teachers' duties linked to their contracts of employment; and a pay structure providing substantially more promotion opportunities for the better teachers to higher scales than were then available, combined with promotion arrangements and differentials designed to recruit, retain and motivate teachers of the right quality across the whole range of school responsibilities.



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3.15 In September following this announcement, the management panel presented further proposals which, as well as the pay offer detailed in paragraphs 3.13 and 3.14 above included the introduction of a scheme to pay teachers or others to undertake midday supervision, and a revised career structure. This included a 2 year entry grade, a teacher grade with a maximum salary of £10,509, and 2 promoted posts of senior teacher and principal teacher with maxima of £12,087 and £14,658 respectively. Each grade was linked to specific duties which teachers in that grade would be expected to undertake. In addition, there were to be additional allowances available for senior and principal teachers for specific management duties.

3.16 In October the management panel made a revised offer of 6.9% without prejudice to future discussions on conditions of service and a new structure. The offer of 6.9% was rejected by the teachers' panel because it did not include a commitment to restore Houghton levels of pay. The offer was withdrawn.

3.17 In November the membership of the teachers' panel was revised, and the NUT lost its majority. On 5 December the teachers panel decided to return to negotiations.

3.18 The management panel reinstated their 6.9% offer, and the teachers' panel entered a claim for 9.9%. Once again ACAS invited the two sides to talks and on 24 January 1986, a provisional agreement was reached including an undertaking to take immediate steps to end industrial action and return to normal duties, and the appointment of an independent panel by ACAS to supervise talks about restructuring and to report in 6 months. The NUT withdrew from the ACAS talks because it did not wish pay and conditions to be considered together. It balloted its members on further industrial action.

3.19 Discussions with the independent panel began in March 1986. The NUT was initially involved, but the employers requested that they be excluded from the talks in April because of continued industrial action. The ACAS panel agreed. The other unions and employers agreed to set up four working groups to consider pay and pay structures, duties and working time, appraisal and negotiating machinery. Soon afterwards, the NUT tried to negotiate a return to the discussions in return for an end to disruption provided that teachers were



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given an interim pay award. On 9 May, an interim settlement was reached in Burnham worth 5.7% on average earnings. The NUT were readmitted to the four working groups after giving an assurance that their disruption would be ended.

3.20 Reports from the working groups were discussed at ACAS on 9 July. Agreement had been reached in principle on appraisal, but progress on the other issues was slow. The employers brought new proposals forward in July and a partial agreement, which was known as "the heads of agreement", was reached at the end of July in Coventry with all the unions except NAS/UWT. However, a range of issues remained to be resolved.

3.21 In October 1986, the report of the Main Inquiry into Scottish teachers' pay was published recommending pay increases of 16.4%. It proposed a salary structure with maxima of £12,500 for primary teachers and £12,900 for secondary teachers on the basic scale, greater differentials for promoted staff than the Coventry "heads of agreement", and a clear definition of duties.

3.22 At the end of October the Government accepted the Main Inquiry recommendations, subject to staging of the pay increase. The Secretary of State for Education and Science announced that the Coventry heads of agreement were not acceptable to the Government because the salary structure compressed differentials, cut back on promotion opportunities and failed to provide sufficient flexibility for management, and because of lack of progress on defining conditions of service. The Government therefore put forward its own proposals based on the Main recommendations. These proposals included a basic scale of up to £12,700 for primary and secondary teachers and five allowances for promoted teachers. They were <sup>also</sup> linked to a new definition of teachers' duties based on those drafted in the ACAS working group. The Government offered to make provision for additional expenditure of £118 million in 1986-87 and £490 million in 1987-88 to finance its own proposals, or a Burnham agreement on pay based on the relevant Main recommendations, within the 16.4 per cent cost envelope of the Main Report, for implementation in two equal stages on 1 January 1986 and 1 October 1987 respectively, with a satisfactory parallel agreement on conditions of service being concluded in CLEA/ST, within the same cost envelope.



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3.23 Neither the local authorities nor the unions were prepared to accept the *Government's* proposals when they met in November in Nottingham. After lengthy negotiations, revised proposals emerged on 15 November which were conditional on the Government providing still more money. These proposals included a basic scale of up to £15,058 plus two responsibility allowances above the main scale of £799 and £2077 respectively as well as provisions on cover, class size and future negotiating machinery. The NAHT and NAS/UWT did not sign them.

3.24 The Government did not accept the Nottingham proposals because they did not sufficiently reward responsibility and experience, because they cost too much overall, and because the proposed new negotiating arrangements were not an acceptable replacement for Burnham. In particular, the Secretary of State was concerned that a new structure should recruit, retain and motivate sufficient teachers of the quality needed in the schools.

3.25 The Secretary of State introduced a Bill in Parliament at the end of November to allow him to determine teachers' pay and conditions for 1987, to abolish the Burnham Committee and to set up an Interim Advisory Committee to advise him on further settlements up to March 1990. He asked the unions and local authorities to reconsider their proposals. However, they only considered minor modifications and in the end made no changes. Two of the unions which had signed the provisional proposals in Nottingham did not continue to <sup>endorse them</sup> after consulting their members.

3.26 The Bill was enacted on 2 March 1987. The Government announced revised proposals on pay which included an increase in the maximum of the main scale to £13,300. On the same day the Secretary of State published a draft Order for consultation to put into effect the first part of the pay award and to introduce a clear definition of the conditions of employment for teachers. The conditions in the Order are similar to those which emerged from the ACAS led negotiations.

3.27 The main difference between the Government's proposals on pay and the proposals developed under the auspices of ACAS is that whereas the ACAS proposals provided higher salaries for teachers on the basic scale, they restricted promotion opportunities by providing only two levels of promoted posts with allowances of £799 and £2077 above the basic scale.



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3.28 The Government's proposals included five allowances above the basic scale ranging from £500 to £4,200 to be awarded in recognition of one or more - in any combination - of the following factors; responsibilities beyond those common to the majority of teachers; outstanding classroom teaching; shortage skills; or recruitment to posts difficult to fill and allowed for more promoted posts than the ACAS proposals as shown by table D below.

TABLE D: NUMBERS PROMOTED UNDER ACAS PROPOSALS (NOVEMBER 1986) AND GOVERNMENT PROPOSALS (EXCLUDING HEADS AND DEPUTIES)

	ACAS PROPOSALS	EXISTING SCALE 3 AND ABOVE	GOVERNMENT PROPOSALS Oct 1987	GOVERNMENT PROPOSALS Sept 1990
Promoted Teachers	80,000	105,000	129,000	165,000
Percentage of Teaching Force	20%	26%	33%	41%

3.29 The Government published a second draft Order on 26 June which would bring into effect provisions completing the introduction of the new pay structure and providing for the second stage of the pay award.

## Abolition of Burnham

3.30 Dissatisfaction with the Burnham arrangements is not new. As early as 1968, just three years after the Remuneration of Teachers Act was passed, the NUT called for a review of the Act, complaining both that the Government had too much power and about the arbitration arrangements. The NAHT also expressed dissatisfaction quite soon after the Act was passed and called for separate negotiating arrangements for head teachers' pay. NAS/UWT said in 1981 that they would prefer non-statutory machinery to deal with both pay and conditions.

3.31 In 1979, the local authority associations called for the repeal of the 1965 Act, complaining about the rigidity of the negotiating system, the need for a single body to discuss both pay and conditions and the Government's control over the total cost since the Government now had greater influence over total



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local authority expenditure through the Rate Support Grant mechanisms. In 1980, the Government announced that it was willing to consider reform of the arrangements so that negotiations would cover both pay and conditions, and opened consultations in 1981 on what should replace Burnham. There was a fairly widespread view then that Burnham did not work, but no consensus on what should replace it. In 1982, the Secretary of State announced that the Government had no plans for legislation to amend or repeal the 1965 Act at that time.

## Negotiating Machinery on Conditions of Service

3.32 From 1944 until the reorganisation of local Government in 1974, conditions of service were negotiated in a Working Group on Teacher/Employer Relations. This made recommendations which were not binding on local education authorities. In 1974 the Council of Local Education Authorities (CLEA) decided to set up a Schools Consultative Committee to carry on the work of the earlier Working Group. This became known as CLEA/ST. The membership of this group included the local authority associations and all the 6 major unions except the PAT. The Government was not represented.

3.33 Individual local authorities in membership of CLEA are expected to honour agreements reached in CLEA/ST with respect to teachers employed in their schools. They do not cover teachers in voluntary aided schools. The agreements have since 1978 been codified in a document known as the "Burgundy Book". This document sets out agreements on

- Tenure
- Grievance and Disciplinary Procedures
- Dismissal
- Leave of Absence
- Teachers' Health
- Teachers' insurance
- Travelling allowances

It does not include any agreement on the definition of teachers' duties and working time except an agreement on mid-day supervision dating from 1968.



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## CHAPTER 4: REQUIREMENTS FOR THE FUTURE

4.1 The education service is vital to the nation's future. The nation's children pass through our primary and secondary schools, and the quality of education that they will receive there will in great measure determine their future development. The quality of education is in turn largely dependent on the work done by teachers. So the nation requires that the teacher force be adequate in numbers, well qualified and well motivated.

4.2 This chapter sets out four key principles which will need to be addressed by any new machinery for determining school teachers' pay and conditions. The meeting of these principles is in the interests of the education service and of the nation as a whole.

### 1: Continuity of Education

4.3 Children need continuous effective education. In recent years industrial action by teachers has all too often resulted in children missing lessons. When children have been at school some teachers have sometimes refused to do the whole of their job: for example, they have refused to write any reports on the children's progress. All this can be educationally damaging.

4.4 There must be no repetition of these threats to children's education. The first principle for any new machinery is therefore that it should be designed to deliver settlements without disruption of schooling. The machinery must be designed so that it does not result in a deadlock which cannot be broken and will deliver settlements within a reasonable time of the due date.

### 2: Affordability

4.5 Education is a large public service which makes a substantial claim on the nation's resources. Priorities need to be decided both as between education and other public services and as between public spending as a whole and private consumption. The second principle for any new machinery is therefore that it should be designed to ensure that settlements have due regard to affordability and to the national economy.

*This is how a principle is a hoped for effect of the new arrangements*



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## 3: Manpower

4.6 The education service competes for skilled manpower with other public services and with the private sector. The third principle for any new machinery is therefore that it should be designed to provide that settlements have due regard to the need to staff the schools appropriately in competition with other employers. That means that salary scales should be compatible with the recruitment, retention and motivation of sufficient teachers of the right quality. Flexibility to provide incentives for recruiting and retaining staff in shortage subjects and posts difficult to fill is clearly important. Recruiting and retaining sufficient teachers in competition with other employers is more difficult in some parts of the country than in others: this has always been recognised through the use of London Weighting. New machinery should be capable of addressing these issues.

*Condition  
of man.*

## 4: Management

4.7 The education service will not prove adequate to the nation's future needs unless it is well managed and effectively delivered. The fourth principle for any new machinery is therefore that it must ensure that settlements support effective management of the schools and provide for proper career-long development and incentives for teachers. One element in promoting effective management is bound to be simultaneous consideration of teachers' pay and other conditions of employment. The determination of teachers' pay must be matched by consideration of the work for which they are paid.



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## CHAPTER 5: DIFFERENT INTERESTS

5.1 Because education is an important national service, many bodies and groups have a legitimate interest in its provision and effectiveness. The consideration of future machinery for determining school teachers' pay and conditions of service needs to take account of the responsibilities and concerns of these wider interests. This chapter considers the interest in the matter of various bodies and groups.

### A: Parliament

5.2 Parliament approves the plans for public expenditure set out in successive Public Expenditure White Papers. It votes the money spent directly by Government, including Rate Support Grant to local authorities. It also approves the Government's plans for taxation. Through the Public Accounts Committee and the National Audit Office it examines whether money has been well spent.

5.3 School teachers' pay is a substantial element in public expenditure - now some £7,000 million a year - and accounts for about 70 per cent of local authority expenditure on schools. It is therefore of major interest to Parliament. The Teachers' Pay and Conditions Act 1987 recognised this by providing for Orders on teachers' pay and conditions to be laid before Parliament and to be subject to votes of both Houses.

5.4 Parliament also has a wider policy interest in education. The quality of education is substantially dependent on teachers and what they do, so Parliament also has a concern with teachers' duties and other conditions of employment. The provision for laying Orders before Parliament in the Teachers' Pay and Conditions Act 1987 also recognised this aspect.

### B: Government

5.5 The Secretary of State is charged under statute - section 1 of the Education Act 1944 - with promoting the education of the people of England and Wales and the progressive development of institutions devoted to that purpose and securing the effective execution by local authorities, under his control and

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direction, of the national policy for providing a varied and comprehensive educational service in every area. He is therefore bound to be concerned with the quality of education and with the quality, deployment and morale of the teacher force as affected by teachers' pay and conditions of service.

5.6 The Secretary of State gives directions as to the number of students to be admitted to courses of initial teacher training and is responsible for securing the availability of sufficient facilities for the training of teachers. The supply of people coming forward to teacher training is inevitably affected by the levels of teachers' pay and by how the teacher's job is perceived. Demand is also affected by pay and conditions of employment. If pay levels do not retain and motivate teachers, wastage rates will increase and more new teachers will be needed to make up for those who have left. If conditions of employment place unjustified restrictions on class sizes or on class contact hours, more teachers may well be needed. The Secretary of State thus has a very strong interest in decisions on both pay and conditions of service stemming from his responsibilities for teacher supply.

5.7 The Government has the responsibility for planning public expenditure and laying plans before Parliament. Teachers' pay is a very substantial part of local authority expenditure which must be considered when examining both the aggregate total and the appropriate division between services. The Government is therefore bound to be concerned with the total size of the teachers' pay bill. The Government's responsibility for teachers is different from its responsibilities for other local authority employees because of the duties outlined above placed on the Secretary of State by statute for the education service generally and for the supply and training of teachers. The nature of this responsibility is such that the Government's interest has to extend to the salary structure as well as the total pay bill.

### C: Local Authorities

5.8 Local education authorities (LEAs) are responsible for securing the provision of education within their area. In England and Wales county councils, metropolitan districts, outer London boroughs and the Inner London Education Authority have this function. LEAs employ about 80 per cent of the teachers in



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maintained schools and pay the salaries of the remaining 20 per cent in voluntary aided schools. LEAs are also responsible for setting a complement of teacher numbers in all maintained schools. Local authorities raise funds from those who live within their areas and commercial undertakings through rates or by precepting on other authorities. LEAs are therefore involved as employers, as bodies charged with providing education and as raisers of money from ratepayers. In the last capacity they must be concerned with the amount which must be raised by rates and precepts towards teachers' salaries and with value for money.

### D: Churches and other Religious Bodies

5.9 Almost a third of all schools are voluntary schools. The great majority of these are associated with a religious denomination. In voluntary controlled and special agreement schools the teachers are employed by LEAs but in voluntary aided schools teachers are employed by the governors. Most voluntary aided schools are Church of England or Roman Catholic. But the Methodist Church, the Free Churches and Jewish organisations also have various interests in voluntary schools.

5.10 The Churches provide guidance to schools of their denomination on matters of employment. They have a particular concern with teachers engaged in religious education, including "reserved teachers" in voluntary controlled schools, who are appointed with the agreement of the governors and may be dismissed at the requirement of the governors if they fail to perform their job suitably. But they are also concerned with the provision by teachers generally of an adequate education within the framework of the particular denomination.

### E: School Governors

5.11 School governors employ the teachers in voluntary aided schools - some 20 per cent of all teachers in maintained schools. In all schools, governors are concerned with the standard of education provided. They wish to see education provided efficiently and effectively. This must lead them to consideration of the work done by teachers and hence to their conditions of employment. They will also be concerned that the school has adequate and suitable teaching staff.



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## F: Head Teachers

5.12 Head teachers are the managers of the other teachers in their schools. They want to see pay levels that will recruit, retain and motivate teachers, and a pay structure that will enable them to reward and promote teachers who do well. They want to see conditions of service that enable them to direct teachers to carry out their professional duties in such a way as to make the school a success. So they have a vital interest in the days and hours to be worked by teachers and the duties which they can be asked to carry out.

5.13 At the same time, head teachers are employees and are concerned with their own pay and conditions of service. For these purposes they may choose to be represented by a trade union. So head teachers have a dual role as managers and employees, and in both capacities they have an interest in teachers' pay and conditions.

5.14 Similar considerations apply to deputy head teachers who assist the head teacher in the management of the school as well as fulfilling their role as employees. In recent years the two associations concerned specifically with head teachers have admitted deputy heads to membership.

## G: Teachers

5.15 Teachers rightly have a very important interest in their own pay. They have a concern for the profession's pay structure, which will affect both their career prospects and the effectiveness of the managerial structure in a school. They are also concerned about the future needs of children and the effect of pay levels and the pay structure on the recruitment of new teachers of the right quality.

5.16 Teachers also rightly have a very important interest in the duties which they may be required to perform, their working time and other conditions of employment. Teachers have demonstrated over many years a commitment to quality of education and the highest standards of teaching. For the majority of teachers teaching has been a vocation into which they have put considerable time, energy and commitment.



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5.17 Teacher Unions have had an important role as many teachers are in membership of unions. Teachers expect these representing them to make a forceful and responsible contribution to both professional and organisational changes as well as in matters concerning pay and conditions.

### H: Parents

5.18 Parents' concern is primarily on their children's behalf. They wish to ensure that their children receive a good education which will prepare them for further educational progression and for adult life. They will therefore expect the teaching force to be well-motivated and effective.

5.19 Parents are particularly concerned that their children's education should not be interrupted or disrupted through industrial action. As taxpayers and ratepayers they also have an interest in the funding of education. They are therefore concerned about both the effectiveness and efficiency of schools.

5.20 Parents have always had a crucial role in the education of their children and the 1944 Act placed clear statutory duties on parents. In recent years their role has become increasingly recognised in other ways, such as through the appointment of parents to governing bodies.

### I: The General Taxpayer and Ratepayer

5.21 The general taxpayer and ratepayer provide the resources for all public services. They have a right to see that money is well spent with due regard to economy. As previously noted teachers' pay accounts for a very substantial sum which must be raised through rates and taxes.

### J: Employers

5.22 Manufacturing and service industries and the public services require that school leavers should be well-educated. It is therefore of concern to them that children should receive effective and continuous education from well-motivated teachers of good quality.



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## CHAPTER 6: THE CHANGING CONTEXT

6.1 Future machinery for determining school teachers' pay and conditions needs to be seen in the light of other Government proposals affecting schools and their financing. A brief account of these proposals is given in this Chapter.

### Financial Devolution to Schools

6.2 The Government propose to introduce in a Bill this Autumn measures that will require local education authorities to delegate responsibility for their budgets to all secondary schools and to primary schools with more than 200 pupils. LEAs would set an overall budget for each school and the school governors would decide spending priorities within this, drawing upon the advice of the head teacher. LEAs would continue to employ the staff of the school except at voluntary aided schools where the governors already employ the staff but governors will have more powers in relation to the appointment of and dismissal of staff.

6.3 The delegation of budgetary responsibility will give governors, staff and parents a greater interest in all items of expenditure. The teachers' pay bill is by far the largest such item. Financial delegation would not be inconsistent with national pay determination arrangements but governors may believe they should have some influence in the matter. Their *concerns* might be met through the representation of governors and head teachers in the negotiating process at national or LEA level. Alternatively this might point to the determination of pay and conditions at school level. Possible approaches to take account of this are discussed in the next Chapter.

### Grant-Maintained Schools

6.4 The Government propose also to legislate in the Autumn to allow schools to opt out of LEA control in favour of direct funding from the Government. An application for grant maintained status would have to come from a majority of governors at a school, backed by a majority of the parents voting in a secret ballot. If the application were successful, the school would receive Government grant at a level comparable to that which the school would have received had it remained with its LEA.

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6.5 It is not intended to make it a condition of grant that teachers should be paid at the same rate as those in LEA schools. However, the governors of the grant-maintained schools would have an interest in the pay rates and conditions of service on offer to teachers in the LEA sector. Their interest might need to be reflected in new machinery for determining teachers' pay and conditions. How this might be done is discussed in the next Chapter.

## Local Government Finance

6.6 The Government plans major changes in the way in which local authorities raise the money to pay for education and other services. Domestic rates will be abolished. They will be replaced by a community charge, payable by all adults as a flat-rate amount in each area. Non-domestic rates will remain but there will be a uniform rate poundage for businesses in England and Wales. Government grants to local authorities will be simplified.

6.7 The aim of these proposed changes is to make local authorities more accountable to the people in their areas. The cost of paying for local services will be shared out more fairly than it is at present. A £1 per adult rise in local spending will mean a £1 increase in the community charge. Every local elector will have a clear incentive to consider the costs, as well as the benefits, of extra local spending.

6.8 These changes may well have implications for the determination of teachers' pay. On the one hand, any substantial increase in teachers' pay negotiated by local authorities and not supported by Government grant would mean a perceptible increase in the community charge. That might make local authorities more reluctant to negotiate such an increase and so reduce the force of the argument that the Government needs to play a major role in decisions on the total to be spent on teachers' pay.

6.9 On the other hand, if pay determination was conducted at national level a settlement would be imposed on local authorities, making them increase the community charge when they are not directly responsible for the increase in expenditure. The case for devolving negotiations to LEA level would therefore be strengthened. Possible machinery to operate both at national and LEA level is discussed in the next Chapter.

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## CHAPTER 7: POSSIBILITIES FOR NEW MACHINERY

7.1 Both before and after the abolition of the Burnham Committee there have been various suggestions for new machinery for negotiating school teachers' pay and conditions of service. The local authority associations have suggested a National Joint Council, which would be a negotiating committee similar to those which operate for other groups of local authority employees. This suggestion has received support from some of the teacher unions. But the NAHT have said that there should be separate machinery to deal with heads' and deputies' salaries and conditions. The PAT have proposed the introduction of pendulum arbitration, under which an arbitrator must choose one of the competing positions rather than decide on a compromise between them. The PAT have also argued the merits of a no strike agreement.

7.2 The National Confederation of Parent Teacher Associations (NCPTA) have suggested that an independent review body should be established for school teachers. In their view the Burnham Committee had shown itself incapable of producing agreements on pay which were accepted by all teachers. They welcomed the abolition of the Burnham Committee because any group of teachers which disagreed could cause unacceptable disruption in schools and because no one union regarded itself as morally bound by agreements to which the majority had set their hands. The idea of a review body has also been canvassed quite widely in the Press.

7.3 One element common to all these suggestions is the handling of pay and other conditions of service together. This seems now generally accepted as a principle and the rest of this chapter assumes that any new machinery would deal with both pay and other conditions of service.

7.4 The Government are not convinced that any machinery so far proposed would meet adequately the principles set out in Chapter 4 and reflect properly the various interests discussed in Chapter 5. This chapter seeks to discuss the whole range of possibilities for components of new machinery.

7.5 Pay determination arrangements since 1965 have included negotiations and an independent element. Sometimes the independent element has just been the



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'good offices' of the Chairman of the Burnham Committee. At other times there has been an arbitration panel and occasionally an independent committee. This chapter takes these 2 strands in turn in identifying the key questions relevant to decisions on long term machinery.

7.6 The following issues relating to negotiations are covered in turn:

- A. the level at which negotiations might take place;
- B. the possible scope of negotiations, including the possibility of separate recognition of distinctive groups among teachers;
- C. the status of negotiations, including whether they are voluntary or statutory;
- D. the participants in negotiations and how they might be represented
- E. the procedures of negotiation

7.7 The chapter then considers the following ways in which an independent element could have a key role in the pay determination arrangements:

- F. arbitration;
- G. an independent chairman and secretariat;
- H. an independent advisory body;
- I. a pay formula;
- J. no strike arrangements.

7.8 A series of questions are set out at the end of each section of the chapter. The government invites responses to these questions.

## NEGOTIATION

### A: Level of Negotiations

7.9 One important question in relation to negotiations is the level at which they are to be carried out. Negotiations on teachers' pay have long been conducted at national level. But negotiations on conditions of service have often been conducted at LEA level: and there often is consultation with unions about working practices in individual schools.



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7.10 Under the Government's proposals outlined in Chapter 4 all secondary schools and many primary schools would be responsible for their own budgets. Some schools would opt out of local authority control altogether. It is arguable that schools which are responsible for their own budgets should also have the responsibility for setting teachers' pay and conditions of service at school level. Needs will vary from school to school. Teachers will be more, or less, difficult to recruit and retain. One possibility is therefore that negotiations should be devolved to school level.

7.11 A second possibility is that negotiations should be conducted at LEA level. LEAs will continue to be responsible for employing teachers in financially devolved schools and for setting the budgets of those schools. The budgets of grant-maintained schools would also be set by reference to the budgets of local LEA schools. LEA level negotiations would enable local circumstances to be reflected. LEAs face very different problems of recruitment and retention of teachers. National negotiations are unlikely to fully reflect those differences.

7.12 A third possibility is a single negotiating forum for England and Wales, which would produce standardised rates of pay and the main framework for conditions of employment. It would be possible for such a forum to reflect local needs to some extent, as has been done for many years through the payment of London Allowance to teachers and through flexibility in the number permitted to be paid on higher scales or to be in receipt of incentive allowances.

7.13 If national arrangements were set up, it would be possible for the outcome of negotiations to be set only as a minimum, with individual local authorities or schools able to negotiate further settlements. This would enable local circumstances to be reflected more accurately than they could be in a national forum. Such an approach could be expensive as it might lead to 'leapfrogging'. But it might also lead to a better match between supply and demand.

At what level should negotiations take place: school; LEA; or national?

If national machinery is set up, should individual schools or LEAs be able to conduct separate negotiations to take account of local needs?



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Would freedom for negotiation at individual school or LEA level lead to a higher or lower overall cost?

## B: Scope of Negotiations

7.14 At whatever level negotiations are conducted, a further question is whether they should cover the whole of the school teacher profession in a single negotiation. It is arguable that the negotiations for the senior managers - the heads and deputies - should be conducted separately. There are, for example, separate negotiations for local authority chief officers and for police officers at or above the rank of superintendent. Neither in pay nor conditions of service do the senior managers have entirely the same interests as those who work as teachers under their direction. On the other hand, senior managerial groups which have separate negotiating arrangements tend to account for a relatively small proportion of the work force: whereas heads and deputies are some 14 per cent of the teaching profession and over 20 per cent in primary schools.

7.15 Because of the important managerial role of heads and deputies there is a case for them to be represented on the management side of negotiations for teachers (other than heads or deputy heads). If such a principle were accepted separate machinery for determining the salaries of heads and deputies would certainly be needed since heads' and deputies' representatives could hardly sit on both the management and employees' side of the same negotiations.

7.16 If negotiations are conducted above school level, a further question is whether the primary and secondary sectors should be treated together or separately. They have been treated together since 1944. But the nature of the two sectors is different. Most primary schools are small. They have little need for hierarchies of management and have traditionally not had large pay differentials within them. Most secondary schools are large. They are organised in departments and year groups and many teachers other than the head and deputies carry substantial responsibilities. It can be argued that the interests of primary and secondary teachers in relation to pay structure are different. The same applies to many conditions of service - for example, cover for absent colleagues which is usually provided to a substantial extent from



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within the school in the secondary sector, but much less often in the primary sector. There is therefore a clear case for separate machinery for the two sectors. But if separate machinery were established, it would be necessary to consider carefully the position of teachers in special schools and middle schools.

7.17 If separate machinery were established for heads and deputies the same sectoral question would arise. Almost three-quarters of heads and deputies work in primary schools: but the interests of secondary heads and deputies are distinct because they are senior managers of, in most cases, much larger establishments. They have larger and more diverse numbers of staff to manage, and this extra responsibility is recognised through higher pay. Therefore, within any separate arrangements for heads and deputies there is a clear case for separate arrangements heads and deputies in secondary schools compared to those in primary schools. It is relevant that all 6 teacher unions in England have some members who are deputies or heads although the NAHT and SHA together represent the majority of heads and deputies.

7.18 If separate machinery for any group of teachers were thought desirable, there could be various degrees of separateness. It would be possible to have separate sub-committees or working parties which reported to one umbrella organisation and whose reports had to be endorsed by that organisation. It would be possible to provide that the proposals of a sub-committee were accepted unless say 20% of the main body rejected it: this would give the main body an override but one which only applied to limited circumstances. Alternatively there could be entirely separate committees with their own secretariats. But in that case there could be an element of common membership on the management side, the teachers' side, or both.

Should pay and/or the conditions of service of heads and deputies be negotiated separately?

Should heads and deputies be represented on the management side of negotiations for other teachers' pay and conditions?

Should the primary and secondary sectors be treated separately in negotiations?

Should heads and deputies in either sector have separate negotiating arrangements?



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If separate arrangements are set up for heads and deputies, should they be conducted under a single umbrella body or completely separately?

If there are separate arrangements for heads and deputies under a single umbrella body should that body be only able to overturn the proposals of the sub-committee in limited circumstances.

## C: Status of Negotiations

7.19 Negotiations could be entirely voluntary or they could have a framework in statute. The work of Burnham was within a statutory framework but that of CLEA/ST is not. A statutory framework could regulate the form of the committee or committees; and it might provide that the outcome of the negotiations was binding on all employers. Pay alone might be made binding or such conditions of employment as were negotiated might also be made binding: the latter would be more consistent with the simultaneous negotiation of pay and other conditions.

7.20 If there were no statutory framework, agreements would never be unconditionally binding on all employers of teachers. But that is the position for most groups of local authority employees; and it has for example enabled London authorities to pay higher rates of London allowance for those groups when they did not believe that the nationally negotiated rates were adequate to recruit and retain suitable staff.

Should machinery be voluntary or statutory?

If statutory, should the statutory framework extend to both pay and conditions?

## D: Participation in Negotiations

7.21 Questions of who participates in negotiations are of crucial importance. Chapter 3 has shown that many groups have an interest in teachers' pay and conditions. This section looks first at the role of the Government; then at the composition of the management side; the composition of the teachers' side; and whether a role could be played by other interests.



I. The Role of Government

7.22 The Government's interest is in part in the costs of teachers' pay. But it also has an interest in the health and effectiveness of the education service and in the demand for and supply of teachers.

7.23 Direct representation of the Secretary of State in negotiations is probably practicable only if negotiations are at national level. In the case of LEA level or school level negotiations the Secretary of State might make known to the negotiators in advance any particular concerns that he had. This might take the shape of purely informal guidance or, if there was a statutory framework to the negotiations, the statute might provide that the parties must have regard to the comments of the Secretary of State. Such comments might be made during the course of the negotiations as well as in advance.

7.24 If the Secretary of State were directly represented in national negotiations it would have to be decided whether his representatives would be part of the management side as in Burnham, or would have a separate status. It would be possible for the Secretary of State's representatives to form a third "panel" whose agreement was needed to any outcome of the negotiations. They might bring forward for discussion Government proposals which were distinct from, or alternatives to, the proposals of the management side and the teachers' side.

7.25 If the Secretary of State's representatives formed part of the management side as in Burnham, their relative voting strength would need to be decided. One possibility would be that they should have a weighted vote which corresponded to the current percentage that Rate Support Grant forms of local authority current expenditure. This is at present about 47 per cent. But it would also be for consideration whether they should have a veto over the total cost of any offer made by management, as was the position in Burnham under the concordat.

7.26 Whether or not the Secretary of State's representatives play a direct part in negotiation, the Government's role in planning public expenditure and determining priorities within it has to be recognised. This could be done in various ways:



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a. The Government could simply announce its intentions on the overall RSG settlement so that negotiations could proceed against that background. This is what happens with most groups of local authority employees.

b. The Government could announce separately the amount of grant that it was willing to make available towards an increase in teachers' pay. The Government might further arrange that grant would be withdrawn or reduced if the increase in the teachers' pay bill exceeded a certain size and any changes in the structure of teachers' pay levels were unacceptable.

c. Because of the size and importance of the teachers' pay bill, the Government would announce separately the amount of grant that it was willing to make available towards the whole of that sum. This would require separate identification of the teachers' pay bill in local authority accounts. The grant might form part of block grant or it could be a separate specific grant.

d. The Government might set a direct constraint on the increase in teachers' pay which it believed was consistent with its plans for the economy as a whole. Negotiations would then be carried out within that limit. This approach would only be possible within a statutory framework.

e. Alternatively, the Government might take a reserve power to set aside the result of negotiation where it believed that result was incompatible with some either general or specific criteria. The power could be restricted to the use of the override when national economic circumstances so required.

f. Alternatively the reserve power in e. above could be wider, resting on the result of negotiations not being in the best interest of the economy or education. This power might be made subject to a vote in both Houses of Parliament.

Should the Secretary of State have direct representation in negotiations if national arrangements are set up?



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If negotiations are at local level, what role should the Secretary of State have?

If the Secretary of State were represented directly, should he be represented on the management panel, or as a third party to the negotiations?

If he is represented separately, should his agreement be needed to settlements, and if so, on which matters?

Should he have the right to put forward proposals of his own?

If his representatives form part of the management side, should they have a weighted vote? If so, how would it be calculated: a defined number; weighting according to RSG percentage; or a veto?

How would the Government's role in planning public expenditure be best taken into account?

## II The Management Side

7.27 The appropriate composition of the management side must depend partly on the level of negotiations:

a. If negotiations were conducted at school level, management would need to include the school governors, plus perhaps the head teacher. The LEA could be represented separately or through their appointees on the governing body.

b. If negotiations were conducted at LEA level, management would be the LEA, plus probably representatives of the governors of voluntary aided schools who are themselves the employers of teachers, plus arguably representatives of the governors of schools with financial delegation, and representatives of head teachers.

c. If negotiations were conducted at national level, the management would be representatives of the LEAs, plus probably representatives of the Churches, plus arguably representatives of the governors of schools with financial delegation and of head teachers, plus possibly representatives of the Secretary of State.



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7.28 If there were no statutory framework, it would be for the management side to organise itself. If there were a statutory framework, the management side could still be left to organise itself; or the statute could lay down which interests must be represented; or the statute could empower the Secretary of State to determine the composition of the management side as in Burnham.

7.29 It would need to be decided whether all members of the management side would have full voting rights; or if some would have observer status only; or if some might have the right to vote on some issues but not others. LEA representatives should undoubtedly have full voting rights. Representatives of school governors or the Churches and of head teachers arguably do not have a financial responsibility and some may consider that they should not vote on matters of pay.

7.30 However, they do have a direct interest in the management of schools and hence in teachers' conditions of service. But changes in conditions of service can themselves have financial consequences. If pay and other conditions of service are to be negotiated simultaneously, it would perhaps be odd to have different voting rights on the two and hence potentially inconsistent outcomes. The voting procedure would also have to be decided. Outcomes might be arrived at by simple majority, or by a weighted majority; or they might require unanimity.

Who should form the management panel if negotiations are to be conducted at (a) school, (b) LEA, and (c) national level?

How should the composition of the management panel be determined?

Should there be statutory provision for political balance to be reflected among representatives?

Which bodies on the management panel at each level should have full voting rights, and which observer status?

Should different voting status be given to different groups for pay and conditions?

What should be the voting procedure: simple majority; weighted majority; or unanimous decision?



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## III The Teachers' Side

7.31 At whatever level negotiations take place, the teachers' side would need to be properly representative of the teachers covered by the negotiations. This would entail different representation on different committees, if there were separate negotiations for heads and deputies, or for primary and secondary schools. It would be for decision whether all unions that have any members at all in the relevant sector should be included, or whether some sort of threshold of minimum membership might be set. Burnham had no formal threshold, but in practice very small unions were not included.

5.32 If negotiations are non-statutory, the teachers' side would determine its own composition. If they are statutory, the teachers' side could still be left to determine its own composition; or rules for determining the composition could be laid down in statute; or the Secretary of State could be made responsible for determining the composition as in Burnham.

7.33 The composition of the teachers' side could reflect the numerical strength of each union. But that would tend to make for very large committees, as in Burnham. An alternative might be to restrict the size of the committee but to have a card voting system in which each union cast votes proportionately to its strength possibly with some adjustment for the head teacher unions. Under such a system union membership would have to be reviewed from time to time.

7.34 This type of system would not overcome two problems associated with Burnham, namely the tendency for unions to conduct their negotiations with a view to improving their relative numbers, which the president of AMMA has referred to as a "recruiting tent" approach, and the point noted by NCPTA, that minority dissentient unions could cause trouble in schools.

7.35 Alternative approaches would be to provide that all unions represented on the committee must agree any settlement or that, say, 80% of the votes must be in favour of proposals for them to become the agreed conclusions of the teachers' side. Under the approach of requiring all unions to be in agreement the relative size of membership would become less important, and there would be no unions which had failed to endorse the settlement. But where there was a



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multiplicity of unions on the committee it could be very difficult to reach settlements on this basis. The unions will tend to have different policies and to represent different interest groups among teachers. Under the approach of requiring proposals to have the backing of 80% of the votes, there would be a strong pressure on the union to reach agreement: it would, however, mean that in some cases a single union and in other cases a combination of two unions could veto any agreement.

Should all unions representing teachers be represented on the teachers side, or should there be some minimum membership figure used in determining the level of representation?

If machinery is statutory, should the teachers' side be determined by itself; by rules laid down in statute; or by the Secretary of State? Should the composition represent the numerical strength of the unions? If so, should this be in terms of membership numbers on the committee, or voting strength?

What allowance should be made for the representation of heads and deputies?

Should decisions be made and settlements agreed by a simple majority or by unanimous decision or by a required minimum proportion of votes such as 80%?

## IV Other Interests

7.36 Under a statutory system settlements might be made subject to a vote in Parliament. This would not mean that a debate would have to be held on every occasion but it would be possible to have one when the outcome was controversial. Under a non-statutory system Parliament's interest could not be directly reflected.

7.37 It would be difficult to reflect the interests of parents, of the general taxpayer and ratepayer, and of outside employers in a system of negotiations. They would not necessarily fit readily into the management side. It would in theory be possible to establish a further, independent panel representing these interests which would have to endorse the outcome of negotiations.



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How could Parliament's interest best be represented?

How can the interests of parents, tax and ratepayers, and outside employers best be taken into account?

E: Procedures of Negotiation

7.38 Committees might determine their own procedures. But if there were several committees, or if negotiation were localised, it might be useful to have common features. Questions to be addressed here might include:

- a. How are settlements to be arrived at? They would presumably require the endorsement of both management and teachers' side. Issues of voting within each side have been discussed above.
- b. How are discussions between the parties to be conducted? There could be a "one voice" convention as until recently in Burnham, or there could be open discussion in which minority viewpoints on each side were expressed. There could be arrangements for the leaders of each side, or a small group on each side, to have private discussions.
- c. How are proceedings to be reported? There could be agreed minutes; or each side could take its own minutes but with an agreed record of conclusions; or there could be a full verbatim record as in Burnham.
- d. Who is to chair the meetings? The management side might provide the Chairman; or the Chair might rotate between the sides; or there might be an independent Chairman - this possibility is discussed further below.
- e. Who is to provide the secretariat? Management might provide and pay for the secretariat; or there could be a joint secretariat with each side paying part of the cost.

How should settlements be endorsed?

How should discussions between the parties be conducted?

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How should proceedings be reported?

Who should chair the meetings?

Who should provide the secretariat?

## AN INDEPENDENT ELEMENT

7.39 There are three main reasons for considering whether an independent element should play a part in any new machinery. First, the problems which have been caused in the past by the divisions on both the management and teachers' sides; second, the importance of the outcome of negotiations; and third, the wide variety of bodies which have an interest in them.

7.40 As described in Chapter 2, there is a history of problems in the negotiation of teachers' pay. On the teachers' side there are deep divisions between the various unions. This has meant that at times the unions have been concerned rather with conflicts between themselves than with the negotiation of settlements. Similarly, the employers have sometimes been split along political lines, leading to considerably more time being spent arguing amongst themselves than negotiating in the full committee. An independent element might help to overcome these problems.

7.41 As noted at the beginning of Chapter 4, teachers' pay and conditions are important elements in the recruitment, retention and motivation of the teacher force which directly affects the quality of education which children receive. An independent element might help to ensure that these issues are considered.

7.42 The various outside bodies and groups with an interest in teachers' pay and conditions are outlined in Chapter 5. An independent element may be the best way in which these interests can be represented in new machinery.

7.43 An independent element in the machinery might take several forms. It could be an addition to negotiations or it could to a greater or lesser extent replace negotiations. Some possibilities are discussed below. In considering which of these might be appropriate, the prospects of successful negotiations in



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the future must be weighed alongside the principles set out in Chapter 4. The more successful negotiating machinery is likely to be, the less will be the need for an independent element. Conversely, if negotiating machinery is less likely to be successful, there is a case for an independent element to play a large part in the process of determining teachers' pay and conditions. There has always been an independent element in the pay machinery for teachers. The following paragraphs consider the questions about the role of an independent element in future arrangements.

## F: Arbitration

7.44 Provision might be made for independent arbitration if negotiation fails. Arbitration might follow from an agreement by both management and unions to go to arbitration. This was the position in Burnham after 1981. While this approach means that negotiations should have reached a complete impasse before arbitration, and therefore discourages participants from going to arbitration as an easy alternative, it also allows both management and unions to use as a weapon the refusal to go to arbitration. There may therefore be prolonged disruption before recourse to arbitration.

5.45 Alternatively, each side might be given unilateral access to arbitration when it considered that continuing negotiations would not bring a settlement. This approach can lead to an early approach to arbitration when a settlement could have been reached by negotiation. Also, it is possible for the unions to negotiate until the employers agree to increase their offer and then to go to arbitration on the expectation that this will produce a result between the employers' last offer and the unions' claim.

7.46 Another possibility is that arbitration might be triggered automatically if a settlement was not reached by a particular date, or by some fixed time after the start of negotiations. Recourse to arbitration might be decided by an independent Chairman - see paragraph 7.51.

7.47 A possible refinement of the concept of arbitration is the use of 'pendulum' arbitration. This would mean that the arbitrators would have to decide to agree to either the unions' claim or the employers' offer. Both sides



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then run the risk that if they take up unreasonable negotiating positions, they may end up worse off than under a negotiated settlement. Pendulum arbitration does not necessarily fit readily with such complex issues as pay and conditions of employment of teachers where arbitrators may prefer specific aspects of both the employers and unions proposals. This approach might, however, not avoid industrial action if teachers were dissatisfied with the outcome.

7.48 The arbitrator might be chosen jointly by the parties to the negotiation; appointed by the Secretary of State subject to the agreement of both sides; or appointed by the Advisory, Conciliation and Arbitration Service.

7.49 The outcome of arbitration might be binding on both sides, or it might not be binding, leading to the possibility of further negotiations. Within a statutory framework arbitration might be made binding by incorporating the result into an Order made by the Secretary of State, as under Burnham.

7.50 The interests of the economy as a whole might be safeguarded by giving Parliament a right to overturn the arbitrator's recommendations when it considered they could not be afforded.

Should arbitration be provided for?

Should access to arbitration be by agreement of both sides, one side, triggered automatically or subject to the decision of an independent chairman?

Should arbitration be on a 'pendulum' basis?

How should arbitrators be appointed?

Should arbitration be binding?

Should Parliament be able to overturn an arbitration award in certain circumstances?



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## G: Independent Chairman and Secretariat

7.51 A negotiating committee could have a Chairman independent of the two sides. Burnham had an independent Chairman throughout its existence. An independent Chairman could play a greater or lesser role. He might simply chair meetings and informal discussions between the parties, seeking to clarify the proposals and responses of each side. Or he might be given the power to make proposals of his own for discussion by the parties in the event of deadlock. He might be given the right to declare that negotiations were deadlocked and to call in an arbitrator; and in such a case he might, with the agreement of the parties, himself act as arbitrator since he would be familiar with the issues involved.

7.52 A further question is the role of the secretariat. Should this be entirely independent or should it include nominees of both the employers and union sides. The secretariat could have a limited secretariat function or it might carry out research and gather information on such subjects as teacher numbers and wastage in different areas. This could help by giving both sides a common factual base in discussing subjects such as the recruitment and retention of teachers.

Should an independent chairman preside over negotiations?

What role should an independent chairman play?

How should the secretariat be constituted?

What role should the secretariat have?

## H: Independent Advisory Body

7.53 A further possibility is an independent advisory body who could examine questions of school teachers' pay and conditions of service. This might be established under statute, or by agreement between the parties: a statutory basis might give it a securer place in the machinery. It could be appointed by the Secretary of State, or the unions and employers might nominate members.



7.54 The advisory body could be given the task of examining questions of pay and conditions when it saw fit; or it might be asked to address questions put to it by the Secretary of State or questions put to it by the Secretary of State following consultation with the teacher unions and local authority associations. Its terms of reference might cover the whole field of pay and conditions, or some aspects, particularly of conditions of service might be left for negotiation.

7.55 The independent advisory body could be required to report each year, or it might only be activated if agreement was not reached by 80% on each of the management and teachers' sides. This would mean that issues would be settled by negotiation where there was a very large measure of agreement, but where no such agreement existed there could be a very important role for an independent advisory body.

7.56 However it came to address questions and whatever the scope of its remit, the advisory body would wish to know the views on these questions of all interested parties. It would therefore ask for evidence and could be required to do so in statute. The Government, the local authorities, the churches and the teacher unions would presumably wish to submit evidence. It would also be possible for the interest of the wider community to be reflected through the submission of evidence from parents' organisations, employers' organisations, and so on.

7.57 Having considered the question and all the evidence put to it, the advisory body would make recommendations. From that point various procedures could be adopted.

a. The recommendations could be treated as binding and incorporated into a statutory order.

b. The recommendations could be made the subject of consultation by the Secretary of State with other interested parties.

c. The recommendations could be made the subject of negotiations between management and the teacher unions. The recommendations might be modified



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by agreement between the two parties or only if there was the support of 80% of the votes of both the management and teachers' sides. This latter approach would mean that negotiation could override the independent element when there was a very substantial level of agreement between the management and teachers sides.

7.58 The issue of affordability would have to be addressed. An independent advisory body might not pay sufficient regard to affordability. The body might be given an indication of the Government's views on public expenditure and on the economy as a whole. If nonetheless its recommendations were not affordable they might be modifiable by the Secretary of State or overturned by a vote in Parliament. Alternatively, limits might be set in advance on the extra expenditure which the body could recommend, whether directly in the form of pay increases or indirectly through changes in conditions of employment.

Would an independent advisory body be an appropriate way of introducing an independent element?

In what circumstances would an independent advisory body be given a remit: would there be advantages in this only happening if negotiation had not reached a substantial level of agreement?

Should it be statutory or voluntary?

How should the membership be determined?

How should it be decided what issues would be addressed?

Should recommendations be binding; subject to consultation; or subject to negotiation? If subject to negotiation might the results of negotiation only overturn the proposals of an independent advisory body in certain circumstances?

How should affordability be provided for in relation to an independent advisory body?



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I: Pay Formula

7.59 A different type of outside element would come from establishing a formula for determining teachers' pay by reference to other factors in the economy or else a restraint such as that recommended in the Megaw report on Civil Service pay. A baseline would first have to be established. Then increases in teachers' pay could be linked to movements in average non-manual earnings, or to the movement in earnings for some group or groups of workers selected as comparable. Alternatively a range could be set within which negotiations could take place: to take the example recommended in the Megaw Report, between the lower and upper quartile of percentage increases for non-manual workers. This would allow some scope for changing relativities to reflect the need to recruit, retain and motivate teachers.

7.60 A formula system could be made binding: or the chosen formula might simply be used to inform negotiations. In that case, if negotiations were statutory, the statute might provide that they should have regard to the relevant movement in earnings.

If a formula were used as part of the arrangement for determining teachers' pay should it be set precisely or as a range?

Should the outcome be binding, or might it be used to inform negotiations?

J: No-Strike Arrangements

7.61 As discussed in Chapter 4, there are strong reasons for devising machinery which attempts to minimise industrial action. There have been suggestions that a 'no-strike' arrangements might be introduced for teachers. In practice, there can of course be no guarantee that industrial action will not take place, even if, in any arrangements, breaking a no-strike agreement led to sanctions. However, it might be possible to limit the likelihood of industrial action by arrangements which placed clear responsibilities on the management and teachers' sides to take part fully in negotiating procedures with an acknowledgement that any independent element in the pay determination process would be accepted.

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Should no-strike arrangements be introduced for teachers?

How should such an arrangement be made binding?

What responsibilities should be placed on management and teachers under such an arrangement?



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## CHAPTER 8: CONCLUSION

8.1 Chapter 7 has set out a series of issues and detailed questions. The questions are reproduced as a continuous list at Annex A. In the light of the requirements for the future set out in Chapter 4, the range of interests concerned set out in Chapter 5 and the developments outlined in Chapter 6 comments are sought on the relative importance of the different issues addressed in Chapter 7 as well as views on the individual questions. Responses should be sent to Room 15/15, Department of Education and Science, Elizabeth House, York Road, London SE1 7PH by 30 November 1987.

8.2 Following careful analysis of the responses it is the Secretary of State's intention that there should be discussions with representatives of all those with an interest.

8.3 The Government does not consider it realistic to expect an agreed new permanent machinery to be in place by April 1988. The Secretary of State will approach the discussions on the responses to the Green Paper with a positive view to the prospect of new arrangements being in place by April 1989.