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Prime Minister

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OPTING OUT OF ILEA: STAFFING ASPECTS

1. I attach a more detailed paper which examines how best to deal with the transfer of staff from the Inner London Education Authority to those boroughs which are likely to take advantage of the opportunity to opt out and run their own education services - Kensington and Chelsea, Wandsworth, Westminster and the City.

Tower Hamlets is also a contender. ds

2. I have discussed the issue of staffing with those boroughs and they have made clear to me that the only practical option for them is to arrange the block transfer to the new LEAs of the 6,000 or so teaching staff linked to particular institutions in the boroughs concerned. In the case of aided schools where there is no change of employer (but only of maintaining authority) it would be both difficult and very controversial to give the opting out boroughs some sort of selective right to dismiss the teachers. Even in the case of county schools, the perceived threat of such a step could well cause serious disruption, and many teachers would seek to move elsewhere. The boroughs recognise that this would be too high a price to pay for the opportunity to take immediate action to slim down the excessive ILEA teacher numbers. They are agreed that they will have to deal with that problem in their own good time.

3. The boroughs and I agree that it makes sense also to provide block transfer terms for school secretaries, laboratory technicians and certain other premises-related staff. At the other end of the spectrum the boroughs will certainly want to recruit individually their own central education staff, with no presumption that these jobs will go to ILEA employees. In the middle are a considerable group of staff - advisers, youth service officers, local office staff - who have a more or less close relationship with particular schools and districts. It may be appropriate for certain

CONFIDENTIAL

24/7

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of those groups to be subject to block transfer, but for the most part we expect the boroughs to staff the functions in question by individual recruitment. The boroughs should have freedom of discretion in appointments. But it could ease the transfer if the boroughs, as in the case of the abolition of the metropolitan counties, were required at least to consider ILEA employees for these jobs, on an equal basis with other applicants.

4. There will in any event be redundancies, given the extent of ILEA over-staffing, particularly in the areas of non-teaching and central staff. It is likely also to be necessary to provide financial compensation to persuade higher-paid members of ILEA's staff to transfer to lower-paid jobs in the boroughs. That compensation should be cheaper than the alternative of redundancy costs.

5. The question then arises how the compensation and redundancy costs should be met. The boroughs can hardly be expected to meet the compensation costs - that would defeat the object. There are also arguments against imposing all of the costs on local taxpayers in the rump ILEA areas. The total bill could be as high as £40 million, and there would be considerable local resentment.

6. A possible approach would be to devise a mechanism to spread these costs across the Inner London boroughs as a whole, but this would mean complex new legislation and most of the costs would still fall on the rump ILEA. It would be helpful if these problems could instead be swept up in some wider scheme of Government assistance towards the once-for-all costs of reducing the level of over-staffing throughout Inner London, on the lines we contemplated at E(LF) on 2 July as a means of easing the transition to the community charge. Such a scheme would help the rump ILEA area deal with a problem not entirely of its own making. It would also help the opting out boroughs with the costs of reducing the number of teachers they had inherited; and it would help to counter the criticism that the Government was willing to offer special help towards the costs of redundancies in the new grant-maintained schools but not elsewhere.

7. When the GLC was abolished a Staff Commission was set up to oil the wheels of staff transfer. It has worked well and is

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now winding up. Although opting out will create much less of a staff upheaval than the abolition of the GLC and the metropolitan counties, there may nevertheless be an advantage in setting up a small commission to assist the process of opting out. The existence of such a Commission would provide a useful measure of assurance to the staff concerned that they would be helped to find suitable alternative posts in the boroughs and would, where appropriate, be properly compensated.

8. I should be glad to know that colleagues are content with my proposals on staff transfer, so that I can initiate consultations before the end of the summer holidays. I should also be grateful for the views of colleagues on the most appropriate mechanism for dealing with the attendant costs of compensation and redundancy.

9. I am copying this minute to other members of E(EP) and E(LF), and to Sir Robert Armstrong.

KS

KB
Department of Education and Science

23 July 1987

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REFORM OF EDUCATION: OPTING OUT OF ILEA: STAFFING ISSUES

MEMORANDUM BY THE SECRETARY OF STATE FOR EDUCATION AND SCIENCE

INTRODUCTION

1. This paper discusses the staffing issues arising out of our proposal to allow inner London boroughs to apply to opt out of ILEA. It assumes for the purposes of exemplification that Kensington and Chelsea, Wandsworth, Westminster and the City will take advantage of this opportunity.

ILEA'S CURRENT STAFF POSITION

2. ILEA is currently responsible for about 65,000 FTE members of staff - actual numbers are significantly greater - of whom some 29,000, or 45 per cent, are teaching staff. Of the remaining 55 per cent, about one-third are other professionals and technicians, some 40 per cent are manual workers, and the rest are a mixture, including 6,000 staff - both teaching and non-teaching - at aided colleges (mostly the 5 London Polytechnics which on present plans will transfer to the new polytechnics and colleges sector in April 1989). We have not yet established how many of these are more or less related to particular schools and colleges - it could be as high as 90 per cent. Precise information on how many work in or on the three boroughs and the City is not yet available. The figure is in the order of 20 per cent, or 13,000 (including the full-time equivalent of central administrators who have a responsibility for the three boroughs and the City).

GLC PRECEDENT

3. The abolition of the GLC in 1986 provides a useful precedent for how to deal with issues of staff transfer. Three types of transfer were used:

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- Block transfer by statutory order (teaching and support staff of schools and colleges);
- Group transfer by statutory order (staff employed in designated services such as finance and legal in the GLC which were taken over by ILEA);
- Individual transfer by recruitment to new posts.

Staff in the first two categories retained their existing terms and conditions of service. Those in the third category obtaining a job elsewhere within local government preserved their continuity of service and, if re-employed on lower pay, qualified for compensation for detriment. Anyone not obtaining a job qualified for redundancy compensation borne by the London Residuary Body. The cost of compensation was funded either through inherited balances or through capital receipts from land sales.

TEACHING STAFF

4. I have discussed this with those boroughs that are likely to opt out and we have come to the conclusion that the only practicable option is to arrange the block transfer to the new LEAs of the 6,000 or so teaching staff linked to particular institutions in the boroughs concerned. To do otherwise would entail the setting-aside of contracts of employment in both maintained and aided schools, and a massive recruitment exercise by the opting-out boroughs. This would be particularly difficult in the case of the many voluntary aided schools, where the governing bodies not ILEA are the employer. The uncertainties so created would risk plunging all the schools concerned into chaos, and many teachers would seek to move elsewhere. The boroughs recognise that that would be too high a price to pay to enable them to take immediate action to slim down the excessive ILEA staffing levels. The boroughs are agreed that they will have to deal with the problem of excessive staffing in their own good time. Since the new employer would still be an LEA there are likely to be few problems arising from the need to amend contracts, as is inescapable where there is a new type of employer (ie in the cases of polytechnics and GM schools).

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5. Block transfer terms for school teaching staff would mean that they would carry over to the new employers their existing pay and conditions of service, based on the Orders provided for in the 1987 Teachers Pay and Conditions Act. In the same way terms and conditions currently in force for lecturers in institutions of non-advanced further education would carry over to the new employers.

6. There are, however, some teachers who are not clearly linked to a particular institution: examples are supply teachers, or peripatetic music teachers. Most supply teachers are temporary staff and will not be transferred. Permanent supply teachers are employed by ILEA on a mobile basis, have no allegiance to a particular institution and also will not be transferred. In practice this should not create a problem for supply teachers in finding continuing employment, whether in ILEA or elsewhere, as there continues to be a major shortage of supply teachers in inner London. For peripatetic teachers it may be appropriate to provide for block transfer terms if, say, the majority of the work is at schools which are covered by opting out.

NON-TEACHING STAFF

7. Our best guess at present is that there are another 25,000 or so FTE non-teaching staff in ILEA who are more or less related to particular institutions, and so about 5,000 FTE of these might relate to the opting-out boroughs. It would be desirable to reduce the burden of ILEA's excess staffing in this area, and that should be possible for those categories of staff who are part of a work force run centrally by ILEA. Examples are school groundsmen and staff involved with the provision of school meals. The opting-out boroughs will probably want to recruit directly to fill their reduced staffing requirements in these areas, although the group transfer mechanism may be appropriate in certain cases - possible examples are some advisers and youth service workers. There are on the other hand groups of staff, such as laboratory technicians and school secretaries, who are clearly institution-related, and for whom it would be appropriate to provide block transfer terms alongside teaching staff. Detailed consultation will be needed with the boroughs before precise boundaries can be drawn.

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CENTRAL STAFF

8. This category includes County Hall staff, Inspectors and other groups of professionals such as educational psychologists, of whom there are about 5,000 FTE in ILEA. About 20 per cent of these staffing resources are estimated to be devoted to work on the boroughs which are likely to opt out.

9. It would neither be desirable nor practicable to provide for block transfer terms to most of these staff, although it may be appropriate to use the group transfer mechanism in certain instances. The boroughs would prefer to recruit directly, and in any case it would rarely be possible clearly to identify headquarters staff whose sole or even primary responsibility lay with the opting-out boroughs. I therefore propose that for the most part the boroughs recruit directly for those non institution-related posts. In this way they will be able to decide from the outset the size and structure of this part of their work force.

10. Our approach here, as with many of the non-teaching staff discussed in paragraph 7, needs to take account of the fact that a reduction in the scale of ILEA's operation should be reflected in an at least commensurate reduction in its staff: this will happen automatically in the case of the block transfers I am proposing for most teaching and some non-teaching staff. But it is unlikely to happen on a sufficient scale in the case of the central and some of the support services staff unless we make special provision to encourage them to transfer.

11. There appear to me to be three options for the arrangement whereby the boroughs recruit the necessary staff. The first would leave entirely free to recruit whom they want; it would not preclude them from taking on some ILEA staff. The second option would be to go to the other extreme and insist that the boroughs employ those ILEA staff who applied unless they could be shown to be clearly unsuitable for the available jobs. Aside from the difficulty of determining suitability, that seems to me to be much too great an imposition on the boroughs. Nevertheless in order to minimise opposition to our policies and to keep down the size of the redundancy bill, there ought to be some obligation on the

CONFIDENTIAL

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boroughs to consider candidates from ILEA. I therefore favour a third option: a non-binding ring-fence approach which would require the boroughs to consider ILEA applicants before making an appointment. In this way we would be encouraging the boroughs to take a reasonably close look at ILEA candidates before going elsewhere; but it would be for the borough itself to decide whom to recruit. Our colleagues in the boroughs that are likely to opt out find this approach acceptable.

12. Whether ILEA central and support services staff will apply for jobs in the opting-out boroughs in significant numbers will depend very much on their individual judgements about the relative career prospects in the boroughs as compared with ILEA or elsewhere. The boroughs, being smaller - and we hope less profligate - organisations, may be likely to offer lower salaries than ILEA, particularly at senior management levels, and that will act as a disincentive to ILEA employees to apply. They may also fear that if they fail to be appointed by one of the boroughs, the fact of having applied would be held against them when ILEA came to decide where redundancy should fall. ILEA employees will have to weigh the prospect of employment with an opting-out borough against the possibility of being made redundant by ILEA and the prospects of finding employment elsewhere outside central London. On past form ILEA will clearly be reluctant to resort to compulsory redundancy, but the Authority's decision will be influenced by the rate of wastage of staff of different kinds, by the scope for the redeployment of staff to other parts of central London, and by the incidence of the costs of redundancy.

REDUCING ILEA'S CENTRAL AND SUPPORT SERVICES STAFFING

13. The extent to which ILEA would be left with surplus central and support services staff and the redundancy costs associated with that will therefore be influenced by the extent to which the opting-out boroughs recruit staff from ILEA. The total number of ILEA staff, other than those who would be subject to block transfer, notionally attributable to the boroughs likely to opt out may be as high as 3,000. If none of these staff was taken on by the boroughs and all were made redundant, the costs might be of the order of £40m. In practice, many staff - particularly junior staff based in the divisions - are likely to transfer. But the opting out boroughs are likely to wish to set up a slimmer operation than their "share" of ILEA's existing central and divisional

CONFIDENTIAL

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administration, so that even on the highly unlikely hypothesis that the boroughs recruited solely from ILEA, the rump ILEA is bound to be left with surplus administrative and support services staff.

14. The numbers taken on by the boroughs will be affected by the pay and conditions offered to potential recruits from ILEA. The salaries of staff in the opted-out boroughs, as noted above, - are likely in many cases to be substantially lower than those of staff at equivalent (or even lower) levels in ILEA. Even at the most junior levels, ILEA uses different gradings and pays more generous London weighting than the boroughs.

15. One option would be to allow the boroughs to offer whatever pay and conditions they wished - such terms would need to be competitive as it is not easy to recruit good quality senior staff in London - with no special compensation for those ILEA staff who voluntarily accepted worse terms than they had in ILEA. This might reduce the willingness of senior staff in particular to apply for posts in the boroughs, and would increase the numbers of surplus staff in the rump ILEA.

16. Alternatively, staff could be offered compensation - either as a lump sum or as an annuity - for detriment on transfer from ILEA to the opting out boroughs. This would mean more nearly comparable treatment for institution based and other staff, and might encourage more ILEA staff to apply for posts in the new LEAs. Experience with the abolition of the GLC suggests that detriment compensation is significantly cheaper than compensation for redundancy. The question then arises who would meet the costs. Opting out boroughs taking such staff could be required to pay the compensation. However, it is unlikely that under this arrangement the boroughs would choose to recruit staff from ILEA; and the effect would therefore be to worsen the staff surplus in the rump ILEA. Alternatively ILEA could be required to pay; but it would be seen as inequitable to load all the costs onto the residents of the boroughs which did not opt out, and there is a danger that the opting-out boroughs would offer lower salaries in the knowledge that the staff in question would be compensated by local taxpayers elsewhere in inner London. Finally it would be possible to spread the costs across the whole of the present ILEA, which could be seen as a form of rough justice which would avoid

CONFIDENTIAL
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the sharpest disincentives to the sensible redeployment of ILEA staff.

17. To the extent that the rump ILEA's staffing was not reduced by transfer to the opting-out boroughs, we would need to try to ensure that it made the further necessary reductions itself. Many of the issues arising on compensation would arise also in relation to financing redundancy costs, and some of the same arguments would apply. It would not make sense to require the opting out boroughs to meet such costs in their entirety, and there would in any case be no practical means of doing this. The alternatives are

- a. to leave the rump ILEA to bear the costs, or
- b. to provide an equalisation mechanism to spread the costs across the whole of the present ILEA.

18. On option (a) it would be necessary to take these redundancy costs - which could be as high as £40 million, or some 4 per cent of ILEA's annual budget - into account in determining any limit which the Government might set on the revenue which ILEA was permitted to raise from the residents of its area within the new system of local government finance. Local taxpayers in the rump ILEA would resent the imposition of these costs; and there would be no guarantee that ILEA would use any allowance made for this purpose actually to defray them. But this option has the advantage of administrative simplicity, and could be represented as in some sense fair broadly equitable, given that the opting out boroughs would be left with the responsibility for dealing with the much larger problem of institution-based staffing.

19. Spreading the costs across the whole of inner London (option b) would not be welcome to the opting out boroughs, who might argue that ILEA overstaffing was not their responsibility, or alternatively that the costs of cutting back on numbers of premises-based staff should similarly be shared. But they would have borne their share of the costs of overdue ILEA staff rationalisation, both central and institution-based, if that had taken place before opting out, so that the equalisation mechanism would not disadvantage them as compared with the position they would have been in had ILEA put its own house in order without

CONFIDENTIAL

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the spur of opting out. However a solution along these lines would involve complex primary legislation, whose form and content has yet to be considered.

20. Whether option (a) or option (b) is pursued, it would be possible, as E(LF) has noted, to relieve Inner London residents of all or part of the cost of these redundancies by paying a specific Exchequer grant in respect of them. Such a grant would require a new statutory power. This power should be exercisable not only in relation to redundancies as a result of opting-out but also to assist any scheme of restructuring which the ILEA can be induced to bring forward to reduce its manning levels generally. A substantial reduction in ILEA's manpower is essential if we are to reduce the impact of ILEA overspend on the community charge in Inner London.

STAFF COMMISSION

21. Under the Local Government Act 1985 the London and Metropolitan Government Staff Commission was set up to safeguard the interests of staff who would otherwise be made redundant by the abolition of the metropolitan counties. The Commission has done a useful job as an honest broker between ex-GLC employees and the boroughs, and is now winding down. Although opting out will create less of a staff upheaval than the abolition of the GLC and the metropolitan counties, there still may be an argument for setting up a similar commission to deal with difficult staffing issues arising from boroughs opting out of ILEA. For example, the Commission might negotiate with the opting-out boroughs the details of the consideration to be given to ILEA employees in cases of direct recruitment, or may advise on the interfaces between block transfer, group transfer and individual recruitment by the opting out boroughs. By negotiating jobs in these boroughs for ILEA employees, the Commission would have a useful effect in reducing the overall cost of the staff reorganisation consequent on opting out, and in reassuring staff that proper consideration would be given to their interests.

SUMMARY OF RECOMMENDATIONS

22. i. Teaching staff should be covered by block transfer;

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- ii. A limited proportion of institution-related non-teaching staff should similarly be covered by block transfer;
- iii. Some parts of the education support services, not clearly identified with institutions, should perhaps be given group transfer as was done with certain GLC staff transferred to ILEA;
- iv. The opting-out boroughs should recruit directly staff required for most central and education support services;
- v. The opting-out boroughs should be encouraged but not obliged to recruit ILEA staff;
- vi. ILEA staff recruited directly to the opting-out boroughs on inferior terms should be compensated for any financial loss;
- vii. The costs of compensation and redundancies in the rump ILEA consequent on opting-out need to be met. The opting-out boroughs can hardly be expected to meet these costs; and the imposition of the whole of these costs on the rump ILEA would act as a disincentive to efficient staffing. There are two further possible approaches:
 - to devise a mechanism to spread these costs across the inner London boroughs as a whole, but this would mean complex new legislation;
 - to sweep these costs up in some wider scheme of Government assistance towards the once-for-all costs of reducing the level of ILEA staffing throughout inner London, so easing the transition to the community charge.
- viii. a Staff Commission should be set up to deal with problems of staff transfer.

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10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

27 July 1987

Dear Rob,

OPTING OUT OF ILEA: STAFFING ASPECTS

The Prime Minister has seen your Secretary of State's minute of 23 July about arrangements for handling the staffing effects on ILEA of opting out. The Prime Minister would wish this to be discussed at a meeting in September, unless there is an unavoidable need for an earlier decision.

I am sending copies of this letter to the Private Secretaries to the members of E(EP) and E(LF) and to Trevor Woolley (Cabinet Office).

Yours,

David

David Norgrove

R. L. Smith, Esq.,
Department of Education and Science.