

GENERAL NOTICE

NOTICE 1229 OF 1995

DEPARTMENT OF EDUCATION

The document entitled *The Organisation, Governance and Funding of Schools: A Draft Policy Document for Discussion* (Draft Education White Paper 2), is hereby published for information and comment.

N. C. MANGANYI,

Director-General: Education.

Draft Education White Paper 2

**THE ORGANISATION, GOVERNANCE AND
FUNDING OF SCHOOLS**

A Draft Policy Document for Discussion

Department of Education

Pretoria
November 1995

COMMENTS ON THIS DOCUMENT

Members of the public are invited to send comments on this document
by 10 January 1996 to:

Director-General
Department of Education
(Att: Mr U Boesenberg)
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Pretoria 0001

**COPIES OF THE REVIEW COMMITTEE REPORT AND
THE FEBRUARY 1995 WHITE PAPER**

Copies of the *Report of the Committee to Review the Organisation, Governance and Funding of Schools* (Pretoria: Department of Education, 31 August 1995) and the Ministry of Education's first white paper, *Education and Training in a Democratic South Africa: First Steps to Develop a New System*, General Notice No. 196 of 1995 (Pretoria: Department of Education, February 1995) are available for purchase in English and Afrikaans versions at the following addresses:

Government Printer
PB X85
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Cape Town 8000

Payment of R 4.22 per copy for the Review Committee Report and R2.78 for the February 1995 white paper should accompany orders.

MESSAGE FROM THE MINISTER OF EDUCATION, PROFESSOR SME BENGU

Introduction

Cabinet has agreed that South Africa's pattern of school organisation, governance and funding, which is a legacy of the apartheid system, must be transformed in accordance with democratic values and practice, and the requirements of the Constitution.

The white paper *Education and Training in a Democratic South Africa: First Steps to Develop a New System*, approved by Cabinet in February 1995, devoted a chapter to this issue. It described the process of investigation and consultation that would be followed by the Ministry of Education in order to bring a new pattern of school organisation into existence. My intention to appoint a representative Review Committee was announced, and its terms of reference were specified, including a statement of principles on which wide public agreement had been reached during the white paper consultation process.

The Review Committee's brief was to recommend to the Minister of Education

a proposed national framework of school organisation and ownership, and norms and standards on school governance and funding which, in the view of the committee, are likely to command the widest possible public support, accord with the requirements of the Constitution, improve the quality and effectiveness of schools, and be financially sustainable from public funds.

The committee

I appointed the members of the Review Committee in March 1995. At their first meeting I emphasised that their task was one of the most important to be entrusted to any group of South Africans in our new democracy. I requested them to work together to find the highest common level of principled consensus, and to be creative in interpreting their terms of reference.

The integrity of the committee has won wide recognition. The process of appointment ensured its acceptability across the broadest possible political and educational spectrum. It included persons of stature with first-hand knowledge of every existing category of school, and a balanced combination of experienced school managers, researchers, policy analysts, and stakeholder representatives. Professor Peter Hunter led his team with authority and tact.

The committee travelled to every province, visited 102 schools of all varieties, talked to stakeholders from across the spectrum, paid special attention to schools in rural areas, commissioned studies, received specialised legal and financial briefing, participated in four conferences on relevant aspects of its brief, investigated the international experience and current trends, and studied nearly two hundred written submissions. They completed their work in only five months.

The report

The Report of the Committee to Review the Organisation, Governance and Funding of Schools (Pretoria: Department of Education, 31 August 1995) was published immediately in English. (An Afrikaans translation has been prepared and its publication is expected at almost the same time this document appears.) The committee's report was signed by all its members, except one who was abroad when the committee was concluding its work. Another member recorded his dissent from certain paragraphs. In other words, the committee succeeded in reaching the highest possible level of principled consensus, as I had asked them to do.

This is an extraordinary achievement, given the appalling history of division, inequality, contestation and conflict in our schools.

The report is a highly competent piece of work by a representative group of South African education practitioners and specialists, who were committed to finding solutions to the problems of school organisation consistent with the letter and spirit of our new democratic order, and who availed themselves of the widest possible range of information, advice, and expertise.

I am satisfied that no comparable committee working to the same brief in the same time period could have done a better job or produced a better-argued set of recommendations.

At my request, the Review Committee has conducted full briefings on their report with me, the Deputy Minister of Education (Mr Renier Schoeman, MP), the Director-General (Dr Chabani Manganyi), and senior officials of the Department of Education. The committee has also briefed provincial Ministers of Education and their heads of department. The chairperson and members of the committee have conducted numerous media interviews and been invited to meetings and workshops in many parts of the country.

I have consulted formally on the Review Committee report with the National Professional Teachers' Organisation of South Africa (NAPTOSA), the South African Democratic Teachers Union (SADTU), and the South African Association for State-aided Schools (SAFSAS). The briefings and consultations, and written submissions on the report which the Department of Education has received, have been extremely helpful in enabling us to formulate our views on the committee's proposals. Thanks are due to all those who have advised us on the report.

I am satisfied that the Review Committee report should be broadly accepted by the government as the basis on which new policy can be built.

The draft white paper

It is time for the Government of National Unity to take clear and well-grounded decisions on school organisation. It is important to focus the public discussion of these matters on live options, and thus enable the main stakeholders to direct their energies toward achieving effective governance, management, teaching and learning in all our schools.

However, the Ministry of Education distinguishes between those matters of policy and process on which it is desirable, necessary and possible for the Government of National

Unity to make early decisions, and those matters on which it is undesirable, unnecessary or impossible for it to do so.

The latter include legal and financial issues where further investigation and consultation are required, including matters on which section 247 of the Constitution requires governments to undertake *bona fide* negotiations with school governing bodies before changes are made.

Given that Parliament and the provincial legislatures both have legislative competence in matters affecting schools, and provincial governments have executive responsibility for the administration of schools, it is essential for me to work with my colleagues, the provincial Ministers of Education, to achieve the highest level of agreement on the way forward. I know that these matters are of direct concern to their constituents.

My formal consultations on the Review Committee report will continue, with a special focus on the proposals in this draft white paper. Such consultations will include the members of the Parliamentary Education Committees.

Professor SME Bengu
MINISTER OF EDUCATION

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1 INTRODUCTION

1.1 This draft policy document presents the response of the Ministry of Education to the *Report of the Committee to Review School Organisation, Governance and Funding* (Pretoria: Department of Education, 31 August 1995), which will be referred to as the "Review Committee Report", or "the report".

1.2 The members of the committee are listed at Annexure 1. Their terms of reference are reproduced at Annexure 2.

1.3 This document quotes more than once from the Ministry of Education's first white paper, *Education and Training in a Democratic South Africa: First Steps to Develop a New System* (Pretoria: Department of Education, February 1995), which will be referred to as "Education White Paper 1". Chapter 12 of that document provides a full statement of the government's policy on the basis of which the Review Committee undertook its investigation.

1.4 This draft document concentrates on the most important findings and proposals in the Review Committee Report, and sets out the Ministry of Education's response to these. In choosing the themes for comment, the Ministry has been guided in part by the consultations which have already taken place on the report, and the written submissions which have been sent to the Department of Education by many organisations and individuals. An analysis of the written submissions, prepared by Professor Peter Hunter at the request of the Department of Education, is at Annexure 3.

1.5 The committee's proposals on the four main themes of organisation, governance, capacity-building and funding are inter-linked and to some extent mutually dependent. They are dealt with in separate chapters below only for convenience and the links between them are not disguised.

1.6 Readers are referred to Education White Paper 1 and, especially, the Review Committee Report, for a fuller exposition of the issues with which this draft document deals. Both are available from the Government Printer at the addresses shown on the inside front cover.¹

¹ A computer gremlin in the English-language version of the Review Committee Report resulted in the word "capacity-building" appearing instead of "capacity". The error has been corrected in the quotations from the report in this document.

2 PRINCIPLES UNDERLYING A NEW FRAMEWORK

Summary of the Review Committee's approach

2.1 The Review Committee proposes that the new structure of school organisation should create the conditions for developing a coherent, integrated, flexible national system which advances redress, the equitable use of public resources, an improvement in educational quality across the system, and democratic governance. The new structure must be brought about through a well-managed process of negotiated change, based on the understanding that each public school should embody a partnership between the state and a local community.

Dealing with the inheritance of inequality

The Review Committee's approach

2.2 The Review Committee's approach to its terms of reference is based on the conviction that the new structure of the school system must deal squarely with the inheritance of inequality and ensure an equitable, efficient and qualitatively better system for all its learners. The committee concludes its analysis of the current situation with the statement that a coherent pattern of school organisation, governance and funding is "absolutely necessary" if the country intends to overcome past divisions. (p. 27)

2.3 The committee's view of change is strongly influenced by the material conditions of South African families. The distribution of resources for education provision must address the fact that almost half of South African families live in poverty, mainly in rural areas. A primary objective of the new strategy for schools must be to achieve an equitable distribution of education provision throughout the nation, in such a way that the quality of provision in under-resourced areas is raised, and reductions in public funding to better-resourced schools are responsibly phased in.

The Ministry of Education's response

2.4 The Review Committee's uncompromising focus on poverty and injustice in the inherited system, and on unifying the system through a managed process of change based on redress, equity and improved quality, are strongly endorsed.

Structure and process

The Review Committee's approach

2.5 The committee makes two kinds of proposals. The first comprises recommendations on a new structure, including a framework of school categories and ownership, and norms and standards for school governance and funding. The second comprises recommendations on processes of negotiation to bring the new structure into existence, and processes of capacity-building which must occur if the full scope of the committee's proposals on governance is to be realised.

2.6 The huge disparities among South African schools required the committee to design a new structure which would be workable as well as transformative. On the

one hand there are significant contrasts in the material conditions of South African schools, the availability or absence of management skills, parents' experience or inexperience in school governance, and the physical distance of parents from their children's schools. On the other hand, the new governance model must be adequately uniform and coherent, sufficiently flexible to accommodate the wide range of school contexts, and manifestly new, "more empowering and equitable" than what it replaces. (pp. 40-41)

2.7 As a guide to negotiated change in the school system, the committee proposes that the new structure must:

- (1) embody equity in school governance and funding;
- (2) ensure redress in funding, to make up the backlogs caused by past unequal treatment;
- (3) enable a visible and measurable improvement to occur in the quality of the learning process and the quality of learning outcomes;
- (4) improve efficiency through the optimum use of resources;
- (5) balance the need for communities to be able to influence the cultural ethos of their schools with the need for national coherence in the system and the promotion of a sense of national common purpose;
- (6) ensure that the decision-making authority assigned to school governing bodies is coupled with the allocation of resources (or the right to raise resources) for them to manage;
- (7) recognise that a governing body's right of decision-making is not linked to the ability of its community to raise resources;
- (8) use the incentive of wider decision-making authority to encourage governing bodies to achieve a "broader vision of the system". (pp. 42-43)

The Ministry of Education's response

2.8 The application of the principles underlying the committee's approach to school organisation, governance and funding will be a very complex matter. That is not because the committee's approach is faulty, but because any solution to the inheritance of injustice in the schools will be difficult to apply and will take time to work through the system. It is all the more important, therefore, that policy goals are clearly stated on the basis of defensible principles, so that they may properly guide the practical decisions which will be required in the course of drawing up legislation, in the process of negotiation with school governing bodies and teachers' organisations, and in the development of administrative arrangements to implement the new system.

2.9 The committee has not tried to disguise the difficulties but has instead addressed itself to working out a balanced and principled approach to dealing with them. The expectations and fears of South Africans who are looking for a clear statement of national policy must be taken seriously. The Ministry endorses the committee's observation that:

"South Africans must be given grounds for confidence that the new system of education which is being developed will be professionally planned and carried out, democratically governed, and effectively managed; that the structures and strategies developed will be such as to enhance quality; and that the resources will be equitably distributed over the population as a whole. It must be clear that the national system is being effectively integrated." (p. 39)

Parental rights

The Review Committee's approach

2.10 Finally, the Review Committee addresses the issue of parental rights. It recognises that parental rights in their children's education are strongly endorsed in Education White Paper 1 (p. 21). However, the committee affirms that parental rights are not absolute or unlimited, but must be exercised within the full context of fundamental rights which all government organs have the obligation to protect and advance, as the white paper also recognises. The committee's proposals include a major role for parents in school governance, to be exercised in the spirit of a partnership between the provincial education department and a local community. (pp. 43-44)

The Ministry of Education's response

2.11 The Review Committee Report endorses the government's view on this important matter, as expressed in Education White Paper 1. This issue is addressed in greater detail at paragraphs 4.15-4.19 below, in relation to the composition of school governing bodies.

Conclusion

2.12 The Review Committee's approach to its task is in keeping with the principles enunciated in its terms of reference, and with the policy of the Government of National Unity as reflected in Education White Paper 1.

3 THE ORGANISATION OF SCHOOLS

Summary of the Review Committee's proposals

3.1 The Review Committee proposes that there should be just two categories of schools in future: public schools and independent schools.

3.2 The public schools category would comprise all schools which are currently known as community schools, farm schools, state schools, and state-aided schools (including church schools, Model C schools, mine schools, and others). Collectively, these comprise just over 98 per cent of the country's primary and secondary schools, and almost 99 per cent of school enrolments.

3.3 The independent schools category would comprise all schools currently known as private or independent schools. Together, these account for not quite two per cent of primary and secondary schools, and about 1,2 per cent of enrolments.

The public schools category

The Review Committee's proposals

3.4 The committee's proposal to bring all present varieties of public sector schools into a single category of public schools would mark the start of a process of orderly change which is "intended to maintain the positive characteristics of all existing models", and give the "spirit of partnership" between "the state" (that is, provincial education authorities) and local communities "an opportunity to thrive". (p. 44)

3.5 Provincial education authorities, acting in terms of national norms, would integrate the present varieties of public sector school types into a coherent system of public schools, after concluding negotiations with school governing bodies in terms of section 247 of the Constitution. Thereafter, the process of integration of the previous categories would commence, ensuring that

"the characteristics which defined schools as 'farm', 'state', 'state-aided' or 'community' schools will have less and less relevance, and the schools will take their place in the public schooling sector with the combination of powers and functions which best reflects the capacity and will of the community, and the policy priorities and accountability of the provincial authorities." (p. 49)

3.6 Public schools would have the following features in common:

- (1) Each public school would represent a partnership between the provincial education department and the local community;
- (2) Public schools would be funded totally or largely from public resources, that is, provincial education department budgets;
- (3) Their admission policies would support the national and provincial governments' responsibilities for the provision of education, implying that admission policies of public schools would be subject to provincial regulations and national norms, and would uphold constitutionally guaranteed rights and freedoms;

- (4) The policy of each public school would be determined within national and provincial frameworks by a governing body comprising elected representatives of the main stakeholders of the school;
- (5) The salaries of teachers in each public school would be paid by the provincial education department according to a staff provisioning scale, and such teachers would be appointed in each public school by the provincial education department on the recommendation of the school's governing body. (pp. 40-49)

3.7 The public school category is very broad, and there would be room for variety within it:

- (1) All public schools would have representative governing bodies with significant responsibilities, but some would take on wider responsibilities from the province than others, especially financial responsibilities, depending upon their capacities and inclinations;
- (2) Farm schools, schools on tribally-owned land, schools for learners with special education needs (LSEN), and technical schools, would be governed in essentially the same way as other public schools, but the distinctive needs and contexts of such schools would be accommodated;
- (3) All state and state-aided schools for learners with special education needs would become public special schools;
- (4) Some schools which are owned and may continue to be owned, by religious organisations, or industries (like mines or plantations), could be taken into the public school system, subject to certain conditions, on the basis of partnership agreements negotiated between the owners and the provincial education department concerned. (pp. 45, 59-60, 81)

The Ministry of Education's response

3.8 The Review Committee proposal has the merit of simplicity. All schools currently in the public sector, whatever they were called in their previous departments, will be re-named as public schools.

3.9 The act of re-naming all schools in the public sector as public schools will also make a fundamental point of policy: All public schools embody the broad public interest in education and need to be organised, governed and resourced in a manner which is faithful to the Constitution, and which enables the government to discharge its obligations under the Constitution. Foremost among these obligations is the need to base the public provision of schooling for all South African children on the principles of equity and redress of past inequality and discrimination.

3.10 The Ministry of Education therefore has an irrevocable obligation to ensure that the new pattern of school organisation breaks with the past and lays a foundation on which a democratically-governed and equitable system of high quality can be built. This requires firm, sustained and co-operative action by the national and provincial education authorities, within their respective spheres of legislative and executive competence, and in keeping with the constitutional guarantees of fundamental rights and due process of law.

3.11 Decisive action by the national and provincial governments to introduce a new pattern of school organisation and ensure that it takes root, must go hand in hand with the empowerment of school governing bodies to assume responsibility for their schools within national and provincial policy frameworks. This principle is stated in Education White Paper 1 as follows:

“State involvement in school governance should be at the minimum required for legal accountability, and should in any case be based on participative management.” (p. 70)

3.12 The Review Committee’s concept that each public school will represent a partnership between the provincial education department and the local community is of fundamental value in reconciling the respective responsibilities of the government and the community. It is the basis for reconstructing the system of public education.

3.13 Once the concept has been given legislative form, preferably through an Act of Parliament which will bring all the inherited varieties of state and state-aided schools within a single category of public schools based on explicit principles and characteristics, the terms of the partnership between state and community will be negotiable between the provincial education departments and the schools. In this way, the offensive disparities in the inherited pattern will diminish, and public schools serving South Africans will progressively enjoy common characteristics based on an evolutionary model of local school governance.

3.14 The committee’s proposals on public school organisation are accepted. They are bold and imaginative, and reflect the principles underlying its approach toward achieving a coherent, integrated national system of school organisation, as summarised in chapter 2.

3.15 The Review Committee’s proposals on public school governance, and specifically the powers of school governing bodies, are reserved for discussion in the next chapter.

The independent schools category

The Review Committee’s proposals

3.16 The Review Committee refers to the independent schools sector as “very small but important” (p. 81). Independent schools are privately owned schools which appoint their own teachers. However, the committee makes it clear that all independent schools should be required by law to register with the provincial education department and to comply with the conditions of registration which the committee spells out.

3.17 Independent schools which wish to apply for a state subsidy should be required to meet conditions of eligibility.

3.18 The committee considers the case for home schools, and concludes that, in view of the importance of the social dimension of schooling, they be recognised only when a provincial head of department is satisfied that a child’s distinctive medical or personal circumstances warrant it, and the home school teacher is professionally competent. However, no subsidy should be paid.

The Ministry of Education's response

3.19 The right to establish and maintain privately-owned independent schools is constitutionally protected. The committee's proposals on government regulation of independent schools through a registration process under provincial government law are consistent with international practice. They would be resisted only by unscrupulous operators whose exploitation of the public must be curbed and eliminated.

3.20 Several representative councils and associations in the independent school sector have informed the Ministry of Education of their wish to be associated with the government's programme of reconstruction and development, and their willingness to make available the professional resources of their schools in suitable forms of partnership with the government and with schools in the public sector. The sentiments and the offers of collaboration are appreciated, and the Department of Education is open to discussion on how such partnerships may be implemented.

3.21 Home schools are evidently a specific case of independent schools. While the Review Committee's regard for the social dimension of schooling is well founded, it perhaps gave insufficient attention to the variety of circumstances in which home schooling might be a reasonable option for a child or a family, and for the rights of parents in certain circumstances to prefer home schooling, supplemented by distance education technology, for instance. The Ministry is aware of many international precedents for the recognition of home schooling, and considers that the relevant laws of other countries be examined to determine the most suitable framework for the recognition of home schooling in this country.

Conclusion

3.22 The nation's schools should be organised in two categories, public and independent.

3.23 The committee's recommendations on the character of the public school sector, and the terms of operation of independent schools, are accepted.

4 GOVERNANCE IN SCHOOLS

Summary of the Review Committee's proposals

4.1 School governance should embody the shared responsibility of parents, teachers, learners and the community for school policy within a national, provincial, and district framework. Provincial education departments should ensure that all public schools have representative school governing bodies by January 1997. All such governing bodies should have a common set of functions (basic powers), and should be entitled to negotiate with their provincial education departments for additional functions (negotiable powers). The form of governance structures in rural areas requires especially careful negotiation. The successful operation of school governing bodies would depend on their receiving effective professional support from their district education authorities.

4.2 Governing bodies in all schools need to make suitable arrangements to meet their responsibilities to learners with special education needs.

4.3 The constitutions of independent schools should include appropriate provision for governance.

Governance policy for public schools

The Review Committee's proposals

4.4 The Review Committee bases its approach to school governance policy on the Constitution and on Education White Paper 1.

4.5 The Constitution establishes a democratic national, provincial and local government order, and binds all governments and public schools to observe fundamental rights and protect fundamental freedoms, many of which directly implicate what decisions should be made by school governors and managements. The Constitution also obliges governments to negotiate with school governing bodies before changing their rights, powers and functions, and to fund all public schools on an equitable basis in order to achieve an acceptable level of education.

4.6 According to the Ministry of Education's school governance policy, stated in Education White Paper 1, decision-making authority is to be shared among parents, teachers, the community (government and civil society) and the learners, "in ways that will support the core values of democracy". The Review Committee suggests that all learners need a balanced education in the values of their immediate environment, and the rights and responsibilities of citizenship within the broad South African society. In turn, this requires a school governance structure which involves all stakeholder groups in active and responsible roles, encourages tolerance, rational discussion and collective decision-making. National and provincial policy should allow for the fact that such capacities may be under-developed in many communities and need to be built. (p. 51)

4.7 Working definitions of the concepts of "governance" and "management" assist in clarifying the role of governing bodies. The sphere of governing bodies is governance, by which is meant policy determination, in which the democratic participation of the schools' stakeholders is essential. The primary sphere of the school leadership is management, by which is meant the day-to-day organisation of

teaching and learning, and the activities which support teaching and learning, for which teachers and the school principal are responsible. These spheres overlap, and the distinctions in roles between principals and their staff, district education authorities, and school governing bodies, need to be agreed with the provincial education departments. This would permit considerable diversity in governance and management roles, depending on the circumstances of each school, within national and provincial policies. (p. 52)

The Ministry of Education's response

4.8 The committee's approach to governance policy for public schools is in full accord with the Constitution and Education White Paper 1.

Structure of public school governing bodies

The Review Committee's proposals

4.9 The Review Committee proposes that the term "governing body" be used uniformly to describe the body that is entrusted with "the responsibility and authority to formulate and adopt school policy within the national, provincial and district vision for education". (p. 54)

4.10 By January 1997, each public school should have a governing body, either new or adapted from an existing structure, which conforms to the norms and standards laid down by its provincial education department. During the transition to the new system, schools without governing bodies would continue to be governed by the department of education until local capacity has been developed and formally empowered. (pp. 46, 54)

4.11 Other representative and deliberative structures within schools, such as student representative councils (SRCs), parents' associations, and staff meetings, are important for successful democratic practice and school management. They should support, but not substitute for, the governing body. An SRC in each school should be mandatory.

4.12 Governing bodies should comprise at least the following members:

- (1) elected representatives of
 - (i) parents or guardians of learners currently enrolled at school;
 - (ii) learners (in secondary schools only);
 - (iii) teachers;
 - (iv) non-teaching staff;
- (2) the principal (*ex officio*);
- (3) members of the community, elected by the governing body.

4.13 The committee has additional proposals about governing body membership:

- (1) the membership of the governing body should reflect the diversity of the school community;
- (2) parents and guardians should have the largest representation of the constituencies represented on the governing body;

- (3) membership should be determined by formal elections, for (renewable) three year terms on a staggered basis to ensure continuity, except that learner representatives should be elected annually;
- (4) the chairperson should be elected by the members, but should not be the principal, a teacher or a learner;
- (5) community representatives, who should be nominated by parents and guardians, could include people with managerial and technical skills, additional members to secure gender balance, or, depending on the school, representatives of the owner of the school, or the local traditional authority;
- (6) political party representation should not be allowed;
- (7) learners could be excluded from discussions about the principal or teaching staff, by decision of the provincial education authority or the governing body concerned;
- (8) appropriate arrangements should be made to ensure adequate representation of the interests of learners with special education needs (LSEN). (pp. 54-56, 60)

The Ministry of Education's response

4.14 The committee's proposals on the establishment and membership of governing bodies are in accord with the policy and principles for school governance in Education White Paper 1. The implementation of these proposals will mark a major advance in the decentralisation of educational control, and the fulfilment of a goal for tens of thousands of parents, teachers, students, former students and community workers who have campaigned to secure the achievement of democracy in schools. At the same time, the new policy marks a decisive shift toward a national, democratic and non-racial system of schools, since is not just the vision for education which will influence the policy-making responsibilities of each public school governing body (see paragraph 4.9 above), but the framework of national and provincial policy, and applicable laws and regulations.

4.15 The multi-constituency make-up of the governing body is right, but a few of the committee's proposals on governing body membership need further consideration. The first concerns the strength of the representation of parents and guardians. In the section of its report headed "Parental Rights in Context", the committee comments that parents will play a major role in public schools through the governing bodies:

"The Committee's recognition of parental rights is reflected in the recommended composition of a public school's governing body (where the parent constituency is to be numerically the strongest) and in the powers of that governing body.

"But parental rights are not absolute or unlimited. They must be exercised within the framework of rights and equity reflected in [Education White Paper 1] and the State has the responsibility to ensure that this takes place." (p. 44)

4.16 While affirming parents' rights in their children's education, the committee wisely insists that public school governance requires something more than turning over the conduct of schools to parent representatives. The committee frequently emphasises that a public school should be a partnership between a local community (which of course includes the parent body) and the provincial education department.

This is a helpful basis for reconstructing public education, but good public school governance requires a flourishing partnership, based on mutual interest and mutual confidence, among the many constituencies which make up and support the school. The question is how to achieve an appropriate balance of different constituency rights and interests in its composition and operations.

4.17 Three options are under consideration. The first is the proposal of the Review Committee to give greater representation to parents and guardians than other constituencies because of their standing and role in the school community. The second option is to emphasise the idea of partnership by creating equal representation of stakeholder constituencies on the governing body. This option could also provide that parents have greater representation on committees of the governing body where their contributions would be particularly important. A third option is to take the view that the constituencies which are external to the organisation of the school (parents and community representatives) should have a greater collective representation than the combined insider constituencies (teachers, other staff, and learners). The Ministry invites advice on these points.

4.18 The Review Committee proposes that community representatives on governing bodies should be nominated by parent and guardian members only. The committee does not explain why representatives of teachers, learners and school workers should not be able to nominate community representatives but only vote on them. A better remedy to ensure that community representatives are acceptable to all the school-based constituencies might be to have an open nomination process for community candidates, but to require either consensus or two-thirds approval among all other governing body members for election of community nominees.

4.19 It may be the case that some of the anxieties which have been expressed about multi-constituency representation on governing bodies would be allayed if the roles of each constituency were specified. For instance, it would not be appropriate for learner and teacher representatives to participate in discussions concerning the contracts or performance of currently employed staff members, but they should be encouraged to participate in discussions on policy matters affecting the teaching staff and learners respectively, and relations between staff and the body of learners.

Roles and responsibilities of public school governing bodies

The Review Committee's proposals

4.20 The Review Committee regards public school governance as part of the country's new structure of democratic governance. The committee's concept of public school governance as a partnership between a local community and the provincial education department leads to its main proposal: each public school governing body should be responsible for a set of basic functions ("basic powers"), and should be entitled to negotiate with its provincial education department to take responsibility for additional functions ("negotiated powers").

4.21 Basic powers. The committee proposes a list of "decisions" or functions for which a typical governing body would be responsible. For convenience, these are re-arranged in categories as follows:

Broad policy

- (1) the school's mission, goals and objectives

- (2) development, implementation and review of governing body policies
- (3) promoting the best interests of the school community

Personnel

- (4) recommendation of teachers for appointment by the provincial authority
- (5) selection of temporary teachers for appointment by the governing body
- (6) appointment of administrative staff

Curriculum

- (7) school times and timetable
- (8) school-level curriculum choices (within national and provincial frameworks)
- (9) extra-mural curricula
- (10) codes of behaviour for staff and learners

Financial

- (11) fund-raising and the control of finances
- (12) school budget priorities

Communication

- (13) methods of reporting to the parents
- (14) school-community communication strategies

Community services

- (15) local services for children and youth
- (16) services and community partnerships related to social, health, recreational and nutritional programmes. (pp. 45, 56-57)

4.22 The Review Committee emphasises that all teachers in public schools should be employed by the provincial education departments. However, each governing body should have a "deep influence" on the appointment of teachers to its school. No appointment would be made by the provincial department without a prior recommendation from the governing body. The department would have to give reasons if it did not accept the recommendation. If the governing body wished to negotiate the matter, the provincial department would be obliged to do so before a final decision on the appointment could be made. (p. 53)

4.23 Negotiable powers. The committee proposes a set of additional, delegated "practical functions", responsibility for one or more of which a governing body could acquire by negotiation with the provincial education authorities:

- (1) maintenance of buildings
- (2) purchase of textbooks and materials
- (3) purchase of equipment
- (4) responsibility for light and water accounts.

4.24 The delegation of such powers would be conditional. The governing body would be required to satisfy the provincial education department that it had the capacity to manage the additional functions according to the standards of provision specified by the province, and that the school community had the will to sustain this responsibility. The province would reserve the right to intervene "to ensure that its policy principles and priorities were respected" and presumably withdraw the responsibility from the governing body in the event of unsatisfactory performance. If schools wished to exceed the province's standards of provision, they would have to do so from their own funds.

4.25 The committee proposes that a governing body could apply to the provincial authority for the power to handle one or more of the additional functions as a juristic person.

4.26 Governing bodies which have the desire but not the capacity to handle additional functions should be assisted to develop such capacity through the capacity-building programme discussed in chapter 5 below. (pp. 45, 57)

The Ministry of Education's response

4.27 Basic powers. All public school governing bodies must have responsibility for a basic list of functions. This is a deceptively simple idea. Once implemented, the vast majority of South Africans will recognise that this decision constitutes by far the most significant devolution of responsibility to school governing bodies in the history of South African education.

4.28 The composition of the list of basic powers is very important. The Review Committee's list (consolidated at paragraph 4.21 above) has been carefully chosen, but should be subject to further scrutiny and, if necessary, amendment, after detailed discussion with the provincial education departments, in the light of advice from stakeholder bodies, before the process of formal negotiation is embarked upon.

4.29 Among the list of basic powers suggested by the committee is the responsibility to recommend teachers for appointment. The Review Committee's proposal, that teachers in public schools be appointed by provincial education departments on the recommendation of governing bodies, is firmly supported. This proposal has two parts, which must be considered separately.

4.30 The first part of the proposal, which advocates that all public school teachers should be appointed (and thus employed) by the provincial education authorities, would not change the status of the overwhelming majority of teachers in the public sector who are employed by government departments, nor would it materially affect the position of teachers in state-aided schools. At present, the Minister of Education, acting after due process in the Education Labour Relations Council, determines the conditions of service of all educators whose salaries are paid or whose posts are subsidised out of public funds. The latter include teachers in state-aided schools, such as Model C schools and special schools for LSEN, who are currently employed by their respective governing bodies, and teachers in state-aided farm schools, who are employed by the farmer.

4.31 Moreover, the implementation of the Review Committee's recommendation would overcome a legal anomaly which has come to light in the Rademan and George cases in Gauteng and Western Cape respectively, where by implication the Minister of Education has been held to be co-responsible for the actions of governing bodies of Model C schools, even though he is not specifically defined as the employer in the Educators Employment Act, 1994 (Act No. 138 of 1994).

4.32 A unitary teaching service is vital for the health of the new system of public schools. Provincial education departments and the organised teaching profession are at present negotiating new staff provision scales, in terms of guidelines agreed between employers and employees in the Education Labour Relations Council in September 1995. This historic exercise to achieve a rational, equitable and non-racial distribution of teachers will mean that some teachers will be asked to transfer to other schools, while by far the majority of teachers will remain in their present posts. Given that our inherited school system has been modelled on racial

differentiation and the perpetuation of privilege, it is essential that the responsible education department should be enabled to decide upon the deployment of teachers in an equitable and educationally sensible manner. In order to make fair and professionally sound decisions, provincial authorities need maximum flexibility in staff deployment, which means that teachers in presently state-aided schools should be an integral part of the pool. A change in the employment status of teachers in these schools will only occur once all constitutional and legal stipulations have been complied with, including negotiations.

4.33 Many submissions have been received from governing bodies of Model C schools and associated stakeholder groups, arguing strongly for the retention of the power to employ their teachers, on the grounds that this represents the single most important factor in enabling governing bodies to influence the quality and ethos of their schools. The sole dissenting voice in the Review Committee Report argues for this point.

4.34 However, the second part of the Review Committee's proposal balances the prerogatives of governing bodies with the necessity for government decisions, while providing strong safeguards against arbitrary administrative action. In terms of this proposal, which is accepted, all public school governing bodies would have the authority to recommend the appointment of teachers to their respective provincial education department, which in turn would be required to give reasons if it declined a recommendation, and to negotiate the matter if the governing body so wished. For most governing bodies, this represents an extraordinary gain in authority and influence. For many personnel practitioners in provincial education departments, it means a significant change in relations with schools. Both parties have much to learn.

4.35 The constitutional and statutory rights of teachers must also be borne in mind. The new Labour Relations Bill, 1995, which has been passed by Parliament and comes into effect in mid-1996, gives applicants for posts the same access to unfair labour practice procedures as serving employees. Any applicant, including a teacher, now has a new and easily accessible avenue to challenge decisions by an employer, for instance on grounds of unfair discrimination in terms of section 8 of the Constitution. The maintenance of a school's ethos cannot be at the expense of an employee's or would-be employee's constitutional rights.

4.36 These matters have profound implications and require careful negotiation.

4.37 Negotiated powers. Governing bodies should have access to a basket of "negotiated powers", which will be assigned by a provincial department if it is satisfied that the applicant governing body has the capacity, and its community has the will, to undertake the additional functions competently in terms of provincial standards of provision. The contents of the basket of "negotiated powers" will depend in part on the contents of the basket of "basic powers". This too requires further study and consultation.

4.38 The Ministry of Education is seeking legal advice on the implications of granting a legal persona to a governing body which requested it in order to undertake the additional functions.

Governance of schools and ELSEN

The Review Committee's proposals

4.39 The Review Committee draws attention to the fact that the Minister of Education is to appoint a National Commission on Education for Learners with Special Education Needs. However, in line with the Ministry of Education's policy in Education White Paper 1, the committee takes the view that the education of learners with special education needs (ELSEN) should be provided within a continuum of integrated services in both ordinary and public special schools.

4.40 The committee proposes that the general principles of school governance should apply in public special schools, but the membership of governing bodies should be adapted to their circumstances. In general, the governing bodies of specialised schools for LSEN tend to have strong representation of the sponsoring bodies and relatively small representation of parents and other stakeholders. The Review Committee proposes that their membership should include representatives of the appropriate stakeholders, which would result in a governing body comprised somewhat as follows:

- (1) elected representatives of
 - (i) parents or guardians of learners currently enrolled at school;
 - (ii) learners, where appropriate (in secondary schools);
 - (iii) teachers;
 - (iv) non-teaching staff;
- (2) the principal (*ex officio*);
- (3) a member of the education support services team such as psychologist, school social worker, guidance counsellor ;
- (4) a member of the sponsoring body, where applicable;
- (5) members of the community, elected by the governing body, who would include representatives of:
 - (i) parents' organisations representing LSEN;
 - (ii) disabled people's organisations;
 - (iii) the disabled community.

4.41 In ordinary schools, it would be appropriate for a sub-committee of the governing body to be established with similar representation, in order to care for the interests of learners with special education needs.

4.42 In both special and ordinary schools, the governing body would serve as the participatory mechanism for planning and monitoring educational provision, to secure the most enabling environment for learners with special education needs. Responsibilities suitable to each environment are suggested in the report. (pp. 55, 60, 91)

The Ministry of Education's response

4.43 The National Commission on ELSEN will be examining and reporting on the governance issue, but some decisions can be made earlier if there is wide agreement on what must be done. The Review Committee's proposals are supported in principle. The Department of Education will arrange for them to be examined and for advice to be given by the National Co-ordinating Committee for

ELSEN which has been established by the Heads of Education Departments Committee (HEDCOM).

Governance in independent schools

The Review Committee's proposals

4.44 The Review Committee notes that schools in the independent sector have been established as educational trusts, Section 21 companies not for gain, close corporations, or under proprietary ownership. They must comply with educational laws and regulations and register with provincial education departments. The committee proposes that conditions of registration should include approval of the school constitution, which should include provisions for governance.

The Ministry of Education's response

4.45 The committee's proposals are accepted. The Ministry will support provincial legislation or other measures to encourage private school owners, directors or trustees to introduce representative governing body or consultative arrangements in their own schools, where they have not already done so.

Conclusion

4.46 The Review Committee's approach to school governance, and its recommendations on the establishment, composition, roles and responsibilities of governing bodies, represent a creative response to its terms of reference and accord fully with the principles on which it was required to operate. Both the committee's approach and the design of the solution to the immensely complex problem with which it grappled are endorsed. A few aspects of the proposals should be modified, while others must await further consultation and legal advice, but in general it can be said that the country now has the main elements of a solution in its grasp.

5 BUILDING CAPACITY FOR MANAGEMENT AND GOVERNANCE

Summary of the Review Committee's proposals

5.1 The Review Committee argues that the re-organisation of the school system, and the establishment of democratic school governing bodies throughout the country, require a comprehensive programme to build capacity for management and governance, especially at school and district levels. The committee proposes an inter-school programme for sharing expertise, the development of provincial capacity-building units, an Education Management Information System, and a National Education Management Training Institute.

Capacities for management and governance

The Review Committee's proposals

5.2 The Review Committee defines "capacity" as the power to act, and "capacity-building" as empowerment. School managements, school governing bodies and district education offices must be empowered to implement effectively the new system of democratic management and governance.

5.3 The committee points out that the provision of basic physical plant, equipment, materials, and administrative and professional support is an essential pre-condition for many school communities, especially in rural areas, to provide learning opportunities of quality and to undertake efficient administration and governance. (p. 97)

5.4 Democratic institutional management makes considerable demands on school principals and their teachers. Already many skilfully manage the contributions of assertive constituencies of teachers, students and parents in a balanced exercise of leadership and authority. Systematic programmes are needed to develop such skills more widely. In addition, the new departments of education must ensure that effective in-service programmes on essential administrative processes like record-keeping, budgeting, financial control, reporting, staff selection and running meetings are provided, and that they embody the spirit of the new democratic education policy.

5.5 New governing bodies, and the constituencies from which they are elected, will need clear information on their basic powers and functions, the negotiable powers for which they might be eligible, and the implications of exercising their governance responsibilities. These include defining and implementing a new school ethos and policy, including sensitivity to race, gender and LSEN issues, as well as essential procedural and administrative matters.

5.6 Capacity-building programmes for governing bodies are needed since large numbers of members will be performing their roles for the first time. However, such programmes will be able to draw on extensive decision-making and consultative experience from other contexts which many members will bring to their new tasks, and on the accumulated knowledge, skills, administrative expertise and resources for effective governance which many school communities already exhibit. District-level programmes should enable well-resourced and successful schools, both public and independent, to share their experience with under-resourced schools whose management and governance capacities need to be built.

5.7 The Review Committee places high value on the role of district education offices and their officials. They will be in the closest contact with schools. They will provide professional leadership and support to school principals, teachers and governing bodies and monitor their development, and identify local priorities for resourcing. They will facilitate co-operation among schools, co-ordinate the use of specialist personnel, advisory services, teachers' resource centres, and community learning centres, and provide an administrative service to district-level consultative bodies. To perform these diverse roles effectively, district education officials will themselves need professional knowledge and skills of school management and governance.

5.8 Provincial education departments will need capacity-building units to identify the priorities and develop and implement the programmes for district and school management and governance, in close collaboration with stakeholder bodies, including teachers' and parents' organisations.

5.9 The Review Committee recognises that the management of the new system will require an Education Management Information System which links all schools and generates the information, including an index of need, on which the norms and allocation decisions on resources can be based.

5.10 Finally, the committee proposes that consideration be given to the establishment of a national Education Management Training Institute, to service national, provincial and sub-provincial management and governance needs.

The Ministry of Education's response

5.11 The new organisation and governance system, to say nothing of new funding arrangements, involve a radical decentralisation of management and governance responsibilities to local schools and communities. It is no exaggeration to say that decentralisation and democratisation will not succeed--that is, they will be incapable of stimulating and supporting the regeneration of the culture of teaching and learning, and enhancing the quality of educational delivery and performance--unless managers and governing bodies are able to understand and perform their tasks competently and in co-operation with each other.

5.12 The committee's approach and its proposals on capacity-building in management and governance are strongly endorsed. A completely new outlook on management development and preparation for governance will be required by both the political and the executive leadership of education throughout the system, at national and provincial levels. We need a national sense of urgency in these matters. We need to give them the necessary priority in our consultations in the Council of Education Ministers (CEM), and ensure that appropriate action is co-ordinated through the Heads of Education Departments Committee (HEDCOM).

5.13 The necessity of a national Education Management Information System (EMIS), built collectively by the national and provincial education departments, was recognised in Education White Paper 1. The EMIS will be designed as a new information system appropriate to the democratic era, and for use as an active management tool for performance monitoring and quality enhancement. The conceptualisation and planning of the new system are being spearheaded by an EMIS steering committee, whose members are drawn from the national and

provincial departments and several research institutions, with significant international financial and technical support. The steering committee is also designing the instrument and procedures to secure data on every school for a national Index of Need. These matters are considered further in paragraphs 6.25 and 6.26 below.

5.14 While Education White Paper 1 drew attention to the priority of management development, especially with a view to enabling school managers to cope effectively with the changes through which the system of education is passing, it did not indicate how this should be done. The manner in which the Review Committee has recognised the inter-dependence of management development for school principals and district education officials, and capacity-building for school governing body members, is therefore particularly welcome. The proposal for provincial capacity-building units provides the germ of an idea which some provinces may already be developing in different ways. The experience of provincialisation thus far demonstrates the importance of co-ordination across provinces, in which the national department can play a facilitating role.

5.15 Active consideration is being given to the establishment of a national education management training institute. After seeking advice from the MECs for Education and provincial education departments, the Department of Education will establish a task team to undertake the planning study for such an institute on the basis of wide consultation.

5.16 The institute should be designed to support the capacity-building programmes of the provincial education departments, focusing particularly on the district and school levels. It should promote applied research, materials development, and leadership training in democratic educational management, strategic and financial planning, and school governance.

5.17 Unesco's International Institute for Educational Planning (IIEP) in Paris has pledged to partner the Department of Education in this endeavour, making available its renowned professional resources and international network. Several bilateral development co-operation agencies have also expressed strong interest in supporting this project.

5.18 The new institute could become the centrepiece in a national strategy to raise the quality of leadership in public schools and in the support services provided to schools by provincial education departments, especially at district level. It would be a mistake, however, to allow the institute project to deflect attention from the immediate need for capacity-building for school managements and governing bodies. Planning for the institute should go hand-in-hand with organising a national programme of capacity-building in schools. It is conceivable that the institute could grow out of practical action, rather than the reverse.

Conclusion

5.18 The new system of public school organisation and governance requires a sustained national programme to develop the knowledge and skills of school principals and governing body members.

6 THE FINANCING OF SCHOOLS

Summary of the Review Committee's proposals

6.1 The Review Committee proposes a new financial system for public schools based on a partnership between the government and communities, on the basis that nothing else is affordable under present conditions. Provincial budgets would be restructured to secure fundamental constitutional requirements and policy objectives. School operating costs would be funded partly by subsidy, and partly by income-related school fees which would be obligatory for all parents who could afford them. Poor parents would not pay fees, and no child would be refused admission to school. The same system would apply in the compulsory and post-compulsory phases, with a reduced per capita subsidy in the post-compulsory phase. The system should be reviewed after five years.

6.2 The committee recommends that public special schools should be financed on essentially the same principles as ordinary schools. However, priority in funding should be given to the majority of out-of-school African learners with disabilities, and the distinctive costs of education for learners with special education needs should be recognised in capital, staffing and operating budgets.

6.3 The committee proposes that the practice of providing subsidies to independent schools should continue, subject to a number of conditions.

Previous trends and present realities

The Review Committee's approach

6.4 The Review Committee bases its approach to school financing and budget reform on the analysis presented in Education White Paper 1.

6.5 The committee draws attention to substantial disparities in per capita spending among the former racially and ethnically organised departments of education. The disparities are accounted for by "the skewed distribution of teacher qualifications, inappropriate linking of salary levels to qualifications, and disparities in learner:teacher ratios". Together with the inequities in teacher per capita costs, the inequitable distribution of other staff costs, facilities and learning resources have resulted in unequal access to education and unequal learning outcomes. Spending disparities reflect the racial hierarchy of the old dispensation, with White learners being historically favoured and African learners being significantly disadvantaged. (pp. 63-64)

6.6 The Review Committee identifies four dimensions of reform as the cornerstones of government's education budget policy and the basis of its own proposals for transforming school financing: measures to address "the central question of equity", to reduce unit costs and raise productivity levels, to redesign the inherited unsystematic pattern of user charges while meeting the commitment to free and compulsory education, and to establish new funding partnerships for educational development. (pp. 64-65)

6.7 After analysing budget allocations for education from 1988/89 to 1995/96, the committee concludes that the public funds allocated in recent years are inadequate to meet the government's development goals. While South Africa's

budgetary allocation for education is relatively high by international standards, the historic concentration of resources on a minority of the population has left the country "without the depth of human resource availability which would otherwise be expected". Even if efficiency savings are significant, without a substantial real increase in budgetary provision, estimated by the committee at five per cent per annum over the next five years, the requirements of restructuring, qualitative improvement, reducing construction backlogs, enrolling out-of-school learners, and absorbing net growth in the school-age population, will not be met. (pp. 65-67)

6.8 The committee concludes that even if the economy were able to support substantial real growth in the education budget, the "optimum affordable level" of per capita expenditure would be somewhere between the current levels in the former Department of Education and Training schools and those in the former House of Representatives schools. This would represent serious reductions in the better resourced parts of the system, and "modest to substantial increases for the vast majority of learners in schools". Arguably, a shift of this kind is required by the constitutional imperatives of equity and redress. (p. 67)

The Ministry of Education's response

6.9 The Review Committee's approach to school financing is appreciated. It extends the education budget strategy in Education White Paper 1 on which it is based. However, the sombre message of the white paper is reinforced by the committee's conclusion that only a sustained increase in the education budget, of around five per cent per annum in real terms, would enable the government to meet the requirements of compulsory general education, redress, restructuring and qualitative improvement. Since the current budgetary trend represents virtually no real year-on-year growth in education spending, this conclusion emphasises the extremely difficult funding choices which the national and provincial departments of education must confront.

Three options for reforming school financing

The Review Committee's proposals

6.10 The committee presents three broad approaches to reforming school financing, all of which assume the new structure of school organisation and governance. The three options are presented separately for analytic purposes, but the committee emphasises that their elements could be recombined in various ways.

6.11 Option One: the minimalist-gradualist approach. This option permits most of the present varieties of school types to continue, while re-naming them all as public schools. A school model closely resembling the current Model C would be retained, with some governance powers reduced. Schools from other ex-departments would be encouraged to adopt the same features as this type of school, including a juristic personality and the authority levy and enforce compulsory fees. Nevertheless, a commitment to equity would require the equalisation of staff provision scales across all school types, possibly over a five year period, and the redistribution of all non-personnel expenditure, either on an equal or an affirmative action basis. All schools would be entitled to raise additional school development funds. (pp. 68-69)

6.12 The Review Committee's appraisal of Option One is that this approach would not redistribute resources sufficiently to make a tangible difference to the majority of under-resourced schools, which would be "further ghetto-ised" in an unequal, bi-polar system. Access to free and compulsory schooling would be available only in the poorest, low quality schools. The committee is therefore convinced that this approach "will not deliver enough change, rapidly enough, to meet the government's policy objectives". (pp. 77-78, 82)

6.13 Option Two: the equitable school-based formula approach. This approach lays heavy emphasis on equity and redress, and is directed to raising quality and efficiency in the poorest schools. The fundamental objective is per capita equity in the allocation of resources, in order to enable the government to meet its constitutional obligation to ensure a minimum quality, basic education for all learners. The starting point is to develop a formula to determine funding for each school, based on a calculation of what gross per capita budgetary allocation can be afforded in the compulsory school phase. The formula would be based on the school enrolment, weighted for redress and affirmative action factors (such as school location, LSEN, and parental income), as well as policy incentives (for instance, to increase the number of girls in science streams). The formula would need to be phased in over four to five years, so as to avoid severe disruption in well-resourced schools. If the education budget remains relatively constant in real terms, the per capita allocation per school would stabilise somewhere between current levels in former DET schools, and those in former House of Representatives schools. This is the "optimum affordable level" referred to in paragraph 6.8 above. All schools would be encouraged to raise voluntary school development funds. No compulsory fees would be permitted. (pp. 69-71)

6.14 The Review Committee's appraisal of Option Two is that it is equitable and transparent, permits adjustments to local circumstances and to variations in budgetary allocations, and fulfils the constitutional requirements on school financing. The main disadvantages are that it requires an effective management information system, a school index of need based on agreed indicators, and the skills of financial planning and management to apply them. In the committee's view, this is therefore a long-term option, but it should remain the objective of budgetary reform. The rapid phasing in of equal staff provision scales and non-personnel costs, and "resolute steps" toward reducing the disparity in average personnel costs, could be undertaken while the information system, index of need and capacity-building programmes were being prepared and implemented. These steps would also be required by Option Three. (pp. 78, 83-83)

6.15 Option Three: the partnership funding approach. This approach seeks to balance the principles of equity, redress, quality and efficiency within a framework for partnership funding between government and communities. It is based on a recognition that the provision of quality education for all at no direct cost to parents and communities is not affordable in terms of current or anticipated budgetary allocations to education. The problem is particularly acute during the transition from the old apartheid system, when the phasing in of equitable allocations and the additional costs of the redress agenda must be addressed simultaneously.

6.16 Provincial budgets for schools would be re-structured to secure the following components:

- (1) *Capital*: an allocation to each province on the basis of an index of need;

- (2) *Redress*: an allocation to each province for an Education Redress Fund, which would channel resources for reconstruction and quality improvement to disadvantaged schools, and leverage additional funds from other sources;
- (3) *Core*: funds for core services such as administration, quality assurance and monitoring, teacher support, and planning;
- (4) *Salaries*: for support staff, and for teachers (based on the provincially-negotiated standard staff provision scale, within national norms);
- (5) *Operating costs*: funds to pay for enrolment-driven operating costs (like textbooks, stationery and teaching materials), and costs which can be calculated on an enrolment-linked formula (like maintenance, electricity and water costs).

6.17 The committee recognises the need to mobilise additional resources for item (5), operating costs, to supplement the budgetary allocation, which is assumed to be relatively static in real terms. Assuming that the government would not agree to levy an additional tax earmarked for education, the committee favours legally obligatory fees payable by all parents who can afford them. Parents would be required to disclose the income bracket within which their income fell. Fees would be payable on an income-related sliding scale, with those at the lower end paying nothing. The provincial department's contribution to operating costs would be in inverse relation to the assessed fee income from parents. The fee scale would be set by the governing body of each school in relation to the assessed income of the parents, subject to an upper limit fixed by the department. Schools with special circumstances could apply for a higher fee limit. All schools would have the right to raise additional funds through voluntary contributions or other means.

6.18 The Review Committee's appraisal of Option Three is that it seems to offer the most advantages as a strategy for financing schools during the transition from the past to the future system of organisation and governance. The committee examines the criticism that this approach would compromise the commitment to free and compulsory schooling. On the basis that the fundamental objective of free and compulsory education is to ensure that no child is denied access to a minimum quality basic education, simply because of an inability to pay, the committee concludes that "this option will in fact ensure that free and compulsory education is available to all who require it", and that children of poorer families would have access to education in a range of public schools, not only lower quality, fee-free schools.

6.19 In the committee's view, the main disadvantages of this approach would be administrative, because of the complexity of assessing family incomes, determining fee structures, and managing a more flexible and creative provincial planning and budgeting system. The committee believes these would not prove to be insurmountable obstacles.

6.20 The committee therefore recommends that:

- (1) the partnership funding approach be adopted and implemented;

- (2) the developmental work on information systems, the school index of need, and capacity-building initiatives be commenced simultaneously;
- (3) the entire system be reviewed after five years, to gauge the feasibility of introducing an equitable funding formula; and
- (4) regardless of which option is adopted, serious consideration be given to providing subsidies for transport and accommodation of rural learners, especially farm workers' children, to enable them to exercise their right to basic education. (pp. 71-79, 83)

The Ministry of Education's response

6.21 The summary above does not do full justice to the presentation of the financing options in the Review Committee Report, especially Option Three. The committee's work on the development of the options, within the framework of an envisaged new, unitary system of school organisation and funding, lifts the policy debate on school financing to a new level. The great merits of the committee's presentation are that the present cost framework and budgetary context are spelled out, the options for reform within the expected constraints are distinct, the assumptions underlying each option are clear, and the feasibility and implications of each option are frankly analysed.

6.22 The main drawback of the presentation is not of the Review Committee's making. The committee did not have the time to undertake detailed cost analyses of the implications of each option, for the budget, individual schools, or parents. In its discussion of Option Three, the committee presents an "illustrative example" of an obligatory annual fee scale (p. 74). These "illustrative" figures have been extensively cited in the media and in comments by members of the public, in most cases without mentioning the committee's caveats. The committee makes it clear that realistic estimates of possible fees can only be made on the basis of national funding norms and estimates of provincial resources, school costs and personal income. Such information is not yet available. The committee's illustrative table will therefore play no part in the Ministry's own analysis of the options, and is not presented here.

6.23 The question of school financing is one of several important matters in the Review Committee Report on which it is neither possible nor desirable for the government to make an early decision. The reasons in this case are that:

- (1) National and provincial legislation to bring about the new system of school organisation and governance must precede the full implementation of a new school finance system. Taking into account the cycle of preparation, consultation, revision, Cabinet approval, and legal scrutiny, a new national schools bill cannot reach Parliament before mid-1996. Assuming that provincial legislation were to follow in the second part of 1996, the earliest date for implementing a new national school finance policy, in terms of norms and standards set by the Minister of Education, would be January 1997.
- (2) The legislative process must comply with the requirements of section 247 of the Constitution, which require that *bona fide* negotiations be held before alterations to the rights, powers and functions of governing bodies are made.

The same section requires that reasonable notice of such alterations shall be given.

- (3) The 1996/97 budget estimates for education continue the progressive shift toward equitable allocations, take into account the newly-negotiated learner-educator ratio guidelines, and include an element of earmarked funding for redress. However, there is no possibility of incorporating the full implications of a new government policy on school finance into the budget which will be presented to Parliament in April 1996. The 1997/98 budget is therefore the earliest in which the new policy could be fully incorporated. Special arrangements will need to be considered in order to implement the new funding policy from the beginning of the school year in January 1997.
- (4) The mechanisms for translating a national school finance policy into provincial budget allocations need to be clarified, in the light of the fact that the Financial and Fiscal Commission is now in operation. The Review Committee completed its report before the Financial and Fiscal Commission (FFC) published its recommendations on the 1996/97 budget, so the committee had no opportunity to take them into account. The intervention of the FFC came late in the 1996/97 budget cycle. Its role in influencing the process and structure of provincial budgetary allocations in terms of its constitutional mandate has therefore not yet been fully tested.
- (5) The full constitutional, legal, financial, political and administrative implications of new policy options for school finance are still being analysed and will need to be openly and extensively discussed before a clear proposal can be put to Cabinet. The Department of Education has engaged specialist advisors to assist it in the process of clarifying the financing options.

6.24 Meanwhile, progress has been made on three important measures which were announced in Education White Paper 1 and incorporated in the Review Committee's recommendations.

6.25 A single learner-educator ratio. A single ratio on which provincial staff provision scales can be based must underlie an equitable school financing system. On 29 September 1995, the Education Labour Relations Council (ELRC) signed an agreement on guideline learner-educator ratios of 40:1 in ordinary primary schools and 35:1 in ordinary secondary schools. These ratios do not stipulate exact class sizes, but provide parameters within which each provincial bargaining chamber will negotiate staff provisioning scales for its schools. This is a major step towards equity in the provision of educators to all schools. Separate agreements will be negotiated for other institutions including special schools and technical schools.

6.26 An Education Management Information System (EMIS). In June 1995 a steering committee was established by the Department of Education to oversee the development of an EMIS. The committee comprises representatives of the national and provincial departments of education, the organised teaching profession, and a number of NGO and academic research units. The committee has undertaken an international investigation and is consulting international specialists in EMIS. A fully integrated and effective system will take two to three years to become fully operational, but the first phase will be implemented in 1996. By providing information to all ten departments of education, the new EMIS will support budgetary and personnel planning for 1996/97.

6.27 A School Index of Needs. The index is required as a planning tool for departments of education. It will be compiled on the basis of a census of all 29,000 schools in the country, and will supplement the data gathered for the EMIS. The fieldwork task is immense. The construction of the national data base and provisional analysis of needs should be completed by late June 1996. The index will enable provincial departments, their regional and district offices, and school communities, to make more informed and equitable decisions about financial allocations to schools, for expenditure on redress and quality improvement.

Financing the post-compulsory school sector

The Review Committee's proposals

6.28 The committee's proposals for the senior secondary sector are based on the government's policy as outlined in Education White Paper 1, and are not intended to pre-empt the work of the proposed enquiry into Further Education. The proposals strongly support government subsidies to post-compulsory education, especially for learners from disadvantaged backgrounds, so that a significant proportion of the age group is able to proceed to the matriculation level and above. The fact that the majority of secondary schools (and secondary school teachers) cover both the compulsory and post-compulsory phases argues for a common funding mechanism for both phases.

6.29 The committee therefore recommends Option Three (described in paragraphs 6.15-6.17 above) for the post-compulsory phase as well. The government subsidy to fund the basic requirements of all learners in post-compulsory education in each school, would cover the following items:

- (1) personnel costs based on equal provision scales;
- (2) capital expenditure;
- (3) a redress and development fund;
- (4) departmental core costs;
- (5) some operating costs in inverse ratio to the income raised from obligatory fees.

The overall per capita subsidy to the post-compulsory phase would be "substantially less" than the corresponding subsidy in the compulsory phase.

6.30 Schools would charge compulsory fees on a sliding scale based on family income, in order to fund operating costs "as well as other items of expenditure". Any additional costs would need to be funded through voluntary contributions, fund-raising activities or business sponsorships. (pp. 79-80)

The Ministry of Education's response

6.31 The Ministry's response is deferred for the reasons given in paragraph 6.23 above.

Financing schools for the education of learners with special education needs (ELSEN)

The Review Committee's proposals

6.32 The Review Committee proposes earlier in its report that all schools for LSEN, except private schools, should become public special schools. The committee acknowledges that new policy for ELSEN will be recommended by the forthcoming national commission, but two principles should guide financing decisions in the mean time. Firstly, priority should be given to redress funding for the majority of African LSEN who are not in school. Secondly, since special education needs cover a wide spectrum of need ranging from low to high, there must be a continuum of placement options for LSEN related to available resources and infrastructure. Financing decisions must therefore support a continuum of provision, including infrastructure, from mainstream schools to separate schools for LSEN.

6.33 The committee recommends that the distinctive costs of ELSEN should be recognised in capital, staffing and operating budgets, and it makes several specific proposals:

Capital

- (1) Within any cluster of mainstream schools, one school should be targeted for the placement of learners with specific disabilities, and in such schools the physical structure would have to be modified and upgraded to improve accessibility and safety for LSEN.
- (2) Separate schools for LSEN should be comprehensive and equipped for students with a wide diversity of need.

Staffing

- (3) A single staff provision scale should be phased in over five years.
- (4) The inherited differences in levels of qualification of educators serving different parts of the ELSEN system must be addressed.

Operating

- (5) The system of obligatory fees on an income-related sliding scale (summarised at paragraph 6.17 above), with zero-rating for the poor, should apply to parents of LSEN as to all other parents.
- (6) Schools should be encouraged to raise funds from sponsoring bodies, business sources, and their own efforts, in order to supplement the government provision and fee revenue.
- (7) Transport provision, which is one of the costliest items for schools serving LSEN, should be rationalised at the district and local level.

- (8) Inter-departmental collaboration between Education, Health, Welfare and Transport should be promoted as an aid to achieve efficient provision of services. (pp. 80-81)

The Ministry of Education's response

6.34 The National Commission on Education and Training for Learners with Special Education Needs will be appointed soon, and it will be enquiring more systematically into the matters reported here. Meanwhile, the Ministry recognises that the committee investigated the ELSÉN sector in accordance with its terms of reference, and received specialist advice from among its own number and from the ELSÉN constituency. The Ministry welcomes the emphasis given to these matters in the report, and endorses the objectives of redress and equity which are served by its recommendations, as well as the principles summarised at paragraph 6.32 above.

6.35 The committee's recommendations relating to capital costs involve significant policy decisions. These are deferred pending further advice.

6.36 The recommendations on staffing costs are in line with the government's policy and are under consideration in the Education Labour Relations Council.

6.37 The recommendations on operating costs are supported, with the proviso that no decision has yet been taken on the question of obligatory fees, as paragraph 6.23 above makes clear.

6.38 The Department of Education will refer the committee's recommendations to HEDCOM's National Co-ordinating Committee on ELSÉN, to advise on which recommendations ought to be endorsed and taken up for implementation by the departments of education in advance of the national commission's report.

Financing education in independent schools

The Review Committee's proposals

6.39 The committee notes that approximately one per cent of the government's education budget is spent on subsidies to independent schools, which enrol less than two per cent of all school students.

6.40 Since independent school provision may represent savings to the government, and since the total independent school subsidy is so small, the committee recommends that:

- (1) the practice of providing subsidies to independent schools should continue;
- (2) the per capita subsidy should not exceed per capita spending on public school students;
- (3) serious consideration be given to a single level of subsidy, based on a clear and transparent formula (for example: enrolments divided by learner-teacher ratios of 1:40 and 1:35 for primary and secondary schools respectively, multiplied by an average educator's remuneration package, or part thereof);

- (4) only private schools maintaining satisfactory scholastic standards be subsidised;
- (5) the conditions of subsidy should enable provincial education departments to ensure minimum standards of professional competence, health and safety, and proper pedagogical practice.

The Ministry of Education's response

6.41 It is beyond question that many independent schools make an important contribution to the education of their clientele and undertake significant development work in curriculum and outreach, that independent school clientele vary from very poor to very rich, that many independent schools embraced a non-racial enrolment policy well before it was officially approved, and have made imaginative adaptations to the new non-racial and democratic order.

6.42 It is also beyond question that many current private school operators are unscrupulous and exploitative, and that the field needs to be rigorously regulated.

6.43 The right of persons to establish independent schools is constitutionally protected, subject to generally applicable limitations which are imposed by law and which are consistent with the spirit of a democratic society. There is no constitutional obligation on the government to support independent schools from public funds. A decision to do so (or to continue to do so) is a matter of policy.

6.44 In this light, the committee's proposals are reasonable and acceptable, subject to further consideration being given to the formula proposed in 6.40(3) above, and to the specification of the conditions of subsidy. It would be reasonable, in the light of this country's history, to decline a subsidy from public funds to independent schools which apply unfairly discriminatory conditions of admission or staffing, or whose teaching opposes the fundamental rights upheld by the Constitution.

Conclusion

6.45 The Review Committee's analysis of the constraints on the education budget is well grounded and well argued. It agrees with the Ministry of Education's position in Education White Paper 1, and offers a realistic and sobering context for policy decisions on public school financing. The committee's three options for public school finance introduces fresh thinking into the debate. Its support for Option Three as a five-year interim measure needs to be very carefully evaluated in terms of its constitutional, legal, budgetary and administrative implications, before a decision can be made.

6.46 A decision on the committee's main proposal for financing ELSN in public schools will therefore also have to wait, but its principles and priorities are supported. HEDCOM's National Co-ordinating Committee on ELSN will be asked to give its advice on the possibility of implementing the proposals in advance of the national commission undertaking its work.

6.47 With some modifications, the committee's proposals on subsidies for independent schools are acceptable.

7 IMPLEMENTING THE NEW SYSTEM OF SCHOOL ORGANISATION AND GOVERNANCE

Summary of the Review Committee's proposals

7.1 The committee outlines the steps required to implement its proposals, beginning with an inter-active process of policy formulation, policy development, planning, and legislative development in the national and each of the provincial education departments. Several processes of negotiation will follow: with school owners in connection with the transfer of assets and use of school property, with school governing bodies in terms of section 247 of the Constitution, and with teachers in respect of changing their employer. Negotiations with school governing bodies which wish to receive additional "negotiable powers" will continue.

The context

The Review Committee's approach

7.2 The committee was required to advise the Minister of Education on how the new system of school organisation, governance and funding could be implemented. The committee's approach is to place its own work within the context of the transition era in South African politics, and the emergence of "a strong tradition of negotiation and stakeholder participation" which is embedded in the 1993 Constitution and upheld in Education White Paper 1. Section 24 of the Constitution entrenches administrative justice as a fundamental right, which requires a commitment to transparency and disclosure in government actions. Section 247 requires governments to enter into *bona fide* negotiations with governing bodies of schools in the public sector before making alterations to their rights, powers or functions. The Education Labour Relations Act, 1993 (Act No. ... of 1993) requires that any matter of mutual interest to teachers and employing departments be negotiated in the Education Labour Relations Council or its provincial chambers. Finally, the committee was influenced by the need to build on the culture of community responsibility in many school governance traditions, which is consistent with the government's Masakhane Campaign. (pp. 85-86)

The Ministry of Education's response

7.3 The committee has done well to place the task of implementation within the context not only of the national and provincial governments' constitutional and legal obligations, but the country's new political culture and national education policy. It is indisputable that the change to the future school system must be negotiated. But its new direction and moral basis are already decided, both in the Constitution and in the government's policy. Even in the context of a Government of National Unity and the new culture of negotiation, some matters are non-negotiable. It has been well said, for instance, that between apartheid and democracy there can be no compromise. This Ministry will not negotiate to protect a historical legacy of unjust privilege in the schools. The Review Committee implies no such outcome--in fact, the opposite is the case--but the Ministry of Education is obliged to make its standpoint clear beyond doubt.

7.4 It is appropriate to cite the chapter on "School Ownership, Governance and Finance" in Education White Paper 1:

"In creating a Constitution based on democracy, equal citizenship and the protection of fundamental human rights and freedoms, South Africans have created a completely new basis for state policy towards the provision of schooling in the future. Unavoidably, because inequality is so deep-rooted in our educational history, a new policy for school provision must be a policy for increasing access and retention of Black students, achieving equity in public funding, eliminating illegal discrimination, creating democratic governance, rehabilitating schools and raising the quality of performance...

"The issue is not whether the organisation, governance and funding of the education system will change. Change is inevitable and cannot be delayed. The issue is whether a new and just dispensation in the schools will be brought about in the new South African way, by negotiating peacefully, according to the spirit and letter of the Constitution, in the service of both national unity and cultural diversity.

"For its part, the Ministry of Education is convinced that peace in the schools is a prerequisite for democratic transformation in education. All the educational goals and programmes of the government depend upon achieving and maintaining a disciplined and purposeful school environment, dedicated to the improvement of quality throughout the system. The Ministry of Education is therefore committed to an inclusive process of negotiated change toward the full democratisation of school organisation and governance...." (Education White Paper 1, pp. 67, 69)

Responsibilities of the national and provincial governments

The Review Committee's proposals

7.5 The committee proposes that the Minister make the report widely available so that the education authorities, key stakeholders, and the public can jointly assess the recommendations, and reach agreement on a new framework. This will involve some detailed macro-planning work to assess the financial, legislative, logistical and other implications, and the establishment of a level of consensus between the national and provincial governments on the relative roles of each level of government in implementing change, including their respective legislative responsibilities. Thereafter, the drafting of the required legislation and regulations should proceed, accompanied by their own negotiation and consultative processes. (pp. 86, 93)

The Ministry of Education's response

7.6 The Minister of Education's Message at the beginning of this document describes the steps already taken to distribute the report and consult on the committee's proposals. Annexure 3 summarises the written submissions received by the Department of Education in response to the report. The present discussion document, which sets out the Ministry's provisional response to the committee's recommendations, provides the opportunity for more focused consultation with the provincial education authorities, parliamentary leaders, the organised teaching profession, and other important stakeholder bodies.

7.7 Taking into account all the processes of consultation and participation on the issue of schools organisation which have occurred since the publication of the draft

of Education White Paper 1 in September 1994, it is time to announce closure on the main conceptual and structural issues. The Minister intends to request Cabinet to approve a revised version of Education White Paper 2 after the recess in January 1996. It must be emphasised that this will be the first stage in decision-making, with many more to come.

7.8 Meanwhile, the Department of Education has engaged a panel of legal specialists to work with the department's legal staff and advise on the constitutional and legal implications of the Review Committee's proposals, and on the course of action which the Ministry of Education intends to undertake. A panel of economists engaged by the Department of Education is working with members of the Review Committee and department staff to evaluate the committee's three options for a new system of school finance.

7.9 The constitutionality of disputed provisions of the Gauteng School Education Bill, 1995, and the National Education Policy Bill, 1995, will be decided by the Constitutional Court in cases set down for 29 February 1996 and 7 March 1996, respectively. The court's findings are likely to have a bearing on aspects of the national and provincial legislation which is expected to be needed to bring the new system of school organisation into effect.

7.10 The Ministry of Education and the provincial MECs for Education need to achieve a common mind on the nature of the legislative responsibility of each level of government, and the sequence and timing of activities which must ensue in order to bring the common system of school organisation and governance into effect in January 1997. This issue has the highest priority for the Ministry.

Processes of negotiation, legal and administrative processes

The Review Committee's proposals

7.11 The committee makes detailed suggestions for the conduct of negotiations and the legal and administrative processes which are required to put the new school framework into effect, once the statutory or regulatory basis has been established. These are reported here only in outline and not exhaustively. Without seeking to pre-judge the sequence they should follow, and noting that some processes overlap with others, the committee's suggestions cover the following main items:

- (1) Section 247 negotiations on proposed alterations to governing body rights, powers and functions;
- (2) Re-designation of all schools falling within the "public school" category;
- (3) Establishment of new, representative governing bodies in all public schools;
- (4) Assumption of "basic powers" by all governing bodies;
- (5) Request to negotiate additional "negotiable powers" by governing bodies which seek to demonstrate their capacity and commitment to manage them;
- (6) Negotiation of disputed powers with governing bodies;
- (7) Assignment of agreed and/or approved powers to governing bodies;
- (8) Negotiating the questions of the fixed and moveable assets of Model C and farm schools, in terms of various options such as transfer of ownership, lease of property to the state, securing rights of use and access; securing ownership to the school of moveable assets purchased with private funds;
- (9) Negotiation of district school development plans for farm schools in order to integrate them into regional education provision;

- (10) Negotiation of rights of use to the property of schools on community-owned land;
- (11) Negotiations in the Education Labour Relations Council of the change of status of educators in public schools who are currently employed by a school and not by an education department;
- (12) Negotiations with independent schools seeking to become public schools, or vice versa, depending upon the applicable legislation. (pp. 86-95)

The Ministry of Education's response

7.12 Merely to list these items gives an indication of their complexity. The Department of Education is awaiting legal advice on these matters. They are matters of exceptional importance and touch the rights and interests of very large numbers of people and communities. The department therefore expects to make available the legal advice it receives in an appropriate form to all interested parties, as an aid to clarifying the questions of legal responsibility, and administrative and negotiation processes, which will need to be settled before the implementation of the new framework can proceed.

Conclusion

7.13 The implementation of a new framework of school organisation, governance and funding will be based on constitutional requirements, the national education policy, and the highest level of agreement between the national and provincial governments. It will be established in terms of new legislation or regulations at national and provincial levels, and undertaken through administrative measures, and through processes of negotiation prescribed by law, between the appropriate level of government and the parties whose rights, powers, functions, assets or employment status are affected.

8 CONCLUSION

8.1 The Review Committee concludes its report on a note which the Ministry of Education can only endorse:

"In a spirit consistent with the perspective of the White Paper, the Review Committee has proposed a framework of school organisation, and norms and standards for school governance and funding. We have been concerned to suggest a foundation upon which a policy could be built that would promote the development of long-lasting quality and equity in education. The Committee has also set out the processes entailed in those changes which require negotiation, and has indicated a very substantial programme of capacity-building required in many contexts if school governance and management are to be effective in the democratic structures being developed.

"We trust that the Report will contribute effectively to the work of the educational policy-makers, planners and education managers in implementing a reformed education system which is truly democratic in the sense that it provides quality education to each and every South African child." (p. 101)

8.2 The Ministry of Education launches this discussion document in the same spirit of hope and determination.

ANNEXURE 1**MEMBERS OF THE REVIEW COMMITTEE**

Professor AP Hunter (Chairperson)
Mr EM Biyela
Mr R Brijraj
Mr FP Buckland
Mr J Godden
Dr A Gordon
Mr M Henning
Dr N McGurk
Mrs GBF Mtombeni
Dr A Muthukrishna
Professor T Park
Mr J Pampallis
Mrs N Peagam¹
Ms A Ramorola
Mr DZ Siswana
Professor JF Steyn
Dr HT van Deventer²

From Education White Paper 1:

“The Minister will appoint to the committee specialists nominated by stakeholders on the basis of their knowledge of the school system, expertise, experience and wise judgment. Members will serve in their personal capacities. The overall composition of the committee will reflect the principle of representativity, and be such as to command the confidence of the widest possible cross-section of the public.” (p. 71)

¹ Mrs Peagam did not sign the report. When it was completed she was overseas and did not see it in its final form.

² Dr van Deventer signed the report subject to the record of the fact that, while agreeing to the report as a whole, he dissents from those paragraphs which entail a limit placed upon the powers of public school governing bodies and therefore of the parents represented in them.

ANNEXURE 2

TERMS OF REFERENCE OF THE REVIEW COMMITTEE

- (a) To analyse and describe the current pattern of school organisation, governance and funding in terms of existing laws and regulations.
- (b) On the basis of legal opinion, to advise on the implications of the 1993 Constitution in respect of school organisation, ownership, governance and funding.
- (c) To commission such research as it requires, and to take submissions, in writing or orally, from whomsoever it wishes, on the current and future pattern of school organisation, governance and funding.
- (d) In the light of the Committee's findings at (a) and (b), the information and advice assembled by the Committee, the accompanying Statement of Principles, and the policy of the government as expressed in the White Paper, to make recommendations to the Minister of Education on a proposed national framework of school organisation and ownership, and norms and standards on school organisation and funding which, in the view of the Committee, are likely to
 - (i) command the widest possible public support;
 - (ii) accord with the requirements of the Constitution;
 - (iii) improve the quality and effectiveness of schools; and
 - (iv) be financially sustainable from public funds
- (e) At its discretion, to advise the Minister on any other matter of importance associated with the objectives and terms of reference of the Committee which may have come to the Committee's notice in the course of its investigation.

Principles

A new national policy framework for school organisation is essential to provide a firm basis for action by the provincial Ministers of Education in the full exercise of their legislative competence. The framework must clarify the legal status of different categories of schools, and establish national norms and standards for school governance and finance.

The framework must be developed on the basis of principles which are in full accord with the Constitution, consistent with the best South African experience, easily understood, and likely to raise the quality and effectiveness of schooling where it is most needed.

The Ministry of Education proposes the following principles as the basis of the new policy framework for school ownership, governance and finance:

(1) *Legal categories of schools*

- (a) The categories of schools recognised in law should be as few as possible.
- (b) The categories should be based on clear criteria such as ownership, funding, and relationship to departments of education.
- (c) The categories should be uniform across the country.
- (d) The categories should assist in the elimination of inequitable and outmoded divisions between the inherited categories of schools.
- (e) The categories should include, but need not be confined to: state, state-aided, and independent schools.
- (f) The circumstances of special schools should be given particular attention.
- (g) The categories should accommodate the constitutional provisions affecting school ownership.
- (h) There should be clearly stated conditions under which a school or group of schools might be permitted to change their category.

(2) *Governance*

- (a) The term "governing body" should be used as the general term to describe school governance structures in all categories of schools.
- (b) The principle of an articulated provincial system of schools needs to be upheld. Therefore, the relationships of school governing bodies to education governance structures within provincial systems, need to be defined.
- (c) School governing bodies should be representative of the main stakeholders in the school. Parents have the most at stake in the education of their children, and this should be reflected in the composition of governing bodies, where this is practically possible. The head or principal of a school should be a member of the governing body *ex officio*.
- (d) In primary schools, the main stakeholders for purposes of governance comprise parents, teachers, and students. It is recognised that these stakeholders can play different roles with respect to different elements of school governance.
- (e) The composition of governing bodies should be sensitive to racial and gender representation, and (in the case of special schools especially) to citizens who can best represent special education needs.

- (f) State involvement in school governance should be at the minimum required for legal accountability, and should in any case be based on participative management.
- (g) The decision-making powers of governing bodies should reflect their capacity to render effective service.
- (h) A capacity-building programme should go hand-in-hand with the assignment of powers to governing bodies. This should be supplemented by management programmes for principals and inspectors, to ensure a smooth transition to the new school governance system.

(3) *Finance*

- (a) The basis of financial allocations to different categories of state and state-aided school must be equitable and transparent, aimed at eliminating historical disparities based on race and region and ensuring an acceptable quality of education.
- (b) In particular, an equitable staff provision scale or scales, must be phased in at state and state-aided schools as rapidly as possible, in full consultation with the representative organisations of the teaching profession.
- (c) The phasing in of an equitable staff provision scale or scales should be based on acceptable educational planning principles, with attention to the requirements of the curriculum, the quality and effectiveness of educational delivery, financial capacity, the physical size of classrooms, the number of students per class, the number of children with special educational needs, and personnel implications.
- (d) The question of the eligibility of independent schools for state subsidies must be determined using clear and equitable criteria based on the public interest, and the observance of constitutional guarantees.
- (e) Appropriate periods of notice must be built into any significant changes in funding patterns.

ANNEXURE 3

THE WRITTEN RESPONSES TO THE REVIEW COMMITTEE REPORT

Introduction

1. The Department of Education has received 152 individually composed letters and over 2 000 "copied" responses. The latter comprise three sets of letters which are identical within each set.

2. The individually composed letters comprise 78 from individuals (most of which were written in Afrikaans), 42 from schools (nearly all of which appear to be Model C schools), ten from church congregations (all of which were written in Afrikaans), and 22 from organisations.

3. Among the latter are three branches of the Afrikanerbond (AB), the Association of Professional Teachers (APT), the Eastern Cape Council of Teacher Organisations (ECCTO), the Independent Schools Council (ISC), the Interkerklike Kommissie vir Onderwys en Opleiding (IKOO), the National Association of Professional Teachers' Organisations (NAPTOSA), the South African Democratic Teachers Union (SADTU), the Suid-Afrikaanse Onderwysersvereniging (SAOU), the Suid-Afrikaanse Stigting vir Onderwys en Opleiding (SASOO), the South African Teachers Association (SATA) and the Transvaalse Onderwysersvereniging (TO).

4. While the letters from individuals are nearly all brief (and are pleas for the retention of Model C and/or Christian-ethos schools), almost all of the organisations named here provided comprehensive responses. Those from the schools and church congregations vary a great deal in length, and commonly include the Model C and/or Christian-ethos themes. These two topics are also the matters dealt with in the "copied" letters.

The report overall

5. Responses which refer to the report as a whole (even those which are very critical of certain aspects) express great appreciation for the committee's process, analysis and general approach. Among those reflecting such views are the AB (Johannesburg), the APT, ECCTO, NAPTOSA and the TO. SADTU indicates that the absence of a comment on a particular recommendation is to be interpreted as approval.

The two categories of school

6. The AB (Jhb), NAPTOSA and SADTU accept the two categories. The TO accepts them but, like the AB (Jhb) points out that "public school" translates into Afrikaans as "state school". (The TO would prefer the term "community school".) The Boland Klassis would accept the public school concept if additional powers were given to governing bodies (GBs). Many schools and individuals seek the retention of the "tried and tested" Model C. The AB (Jhb) and the TO, while accepting the two-category proposal, discourage a change in the ownership of the present Model C schools, since that ownership is in any case so restricted.

7. On this point, others add that the state would be taking on an impossible financial burden in respect of such items as insurance. The AB (Jhb) states that the legal and financial aspects of a return of Model C ownership to the state have not been fully set out.

Diversity within the public school system

8. Many groups and individuals express deep concern that the report has not made provision within the public school category for schools which reflect distinctive cultural, religious and language traditions. Those who elaborate on this point make it clear that while their particular interest is in a Christian ethos and the Afrikaans language, they would recognise analogous claims on the part of other groups. They disavow any racial motive, and are at pains to disclaim any attempt to monopolise the schools in question: pupils not sharing the culture would be welcome if they were to abide by the ethos of the school.

9. NAPTOSA points out that the Constitution accepts cultural diversity, and the TO states that the public school category must reflect that diversity. SASOO draws attention to the situation in a number of western countries where the state system includes religion-specific schools with full state funding.

10. The Afrikaanse Kultuuraad Pinetown-Westville maintains that the report includes recommendations which negate basic human rights, in fact the inalienable rights of minority groups. This is done, it says, on the basis of sections 32(a) and (b) of the Constitution and on statistical grounds, being justified by a winner-takes-all principle. It warns that this approach would entail confrontation. A school serving a distinct cultural minority could lose its character to an incoming majority of new pupils of a different culture. A cultural minority, it maintains, needs control over its schools' admissions, teacher appointments and religious activities.

11. In a joint response, the Klassis Boland and the Bellville Gereformeerde Kerk suggest a consequence of the Review Committee's recommendations:

"Schools which over the years have attained a distinctive level, probably (with few exceptions) based on a particular linguistic, cultural and religious identity, with strong discipline and a culture of work and study, will now have to surrender the strongest foundations of their identity, and be thrown open to anyone who wishes to enrol, irrespective of an applicant's ability (or willingness) to abide by the standards and ethos of the school." (Translated from the Afrikaans.)

12. A different approach to non-monopolising religion-based schools is reflected in the Catholic Institute of Education's desire for an effective partnership with the public system. Here, too, overseas examples of such arrangements are cited.

13. The South African Federation of Waldorf Schools offers a third approach to diversity within the public school system, since it seeks to accommodate within the public system learners whose parents choose this distinctive pedagogical methodology.

Home schools

14. The report's recommendation that home schooling be recognised only under exceptional circumstances produced only one South African response. The Boland Klassis maintains that parents should be allowed to educate their children at home if the public school's values are in conflict with the parents' Christian convictions.

Governing bodies: composition

15 The AB (Jhb) accepts the recommended composition of governing bodies (GBs). Its Wellington branch would give parents the overall majority in the GB, and would omit the proposed additional members to ensure gender balance. ECCTO provisionally accepts the suggested composition, but believes that the inclusion of student members and of community representatives should be at the discretion of the institution. SADTU maintains that all constituencies should have equal representation (as in PTAs/PTSAs) and that the inclusion of community representatives should be by agreement among the stakeholders. The Hoërskool Suid-Natal calls for a clear delineation of the areas of authority of each membership category within the GB, since it fears that the representation of community organisations could produce chaos, and NAPTOSA asks specifically for the rights of teacher and student members to be defined.

Governing bodies: "basic powers"

16. Respondents commenting on this matter believe that the GB's basic powers are too limited. Parktown High School for Girls maintains that demonstrably responsible GBs should not have their powers diminished because of possible misuse by irresponsible ones. The Klassis Boland remarks that proposed GB powers are considerably less than those enjoyed by Cape schools for decades. The AB (Wellington) believes that the GB should have disciplinary powers.

17. But the most common complaint is the absence of GB decision-making powers on matters affecting ethos: admissions, religious policy, language medium, teacher appointments and school fees.

18. The AB (Jhb) notes the principle enunciated in Education White Paper 1, that state involvement in school governance should be at the minimum required for legal accountability, and should be based upon participative management. The Review Committee, it maintains, has gone beyond that. The TO affirms the principle of subsidiarity. SASOO comments in some detail upon the ethos-related dimensions mentioned above, and claims that the report recommends autocratic powers for the state. Some schools and church congregations make similar points.

19. A number of respondents deal with GB and state powers in the appointment of teachers from points of view which is not explicitly related to the school's ethos. These cover a wide range. SATA and Northlands Girls High School believe that teachers should be appointed by the school. A working party appointed by sixty KwaZulu-Natal schools expresses the view that GBs should finalise appointments following provincial guidelines.

20. Other respondents accept the report's recommendation. Westville Boys High has no reservation about it. The AB (Wellington) states that the proposal seems fair, but hopes there will be no hidden agenda in the exercise of state authority. SADTU would like the appointment of teachers to be made explicitly in accordance with ELRC agreements, and to reflect the principle of affirmative action.

21. There are calls to limit, to academic requirements, the grounds on which the state may veto a GB recommendation for the appointment of a teacher. The Grove School, Cape Town (a Model C school which is very appreciative of the report) asks that the possible grounds of such a veto be made known.

Governing bodies: "negotiable powers"

22. Despite its concern about the report's frequent reference to the state as the senior partner, NAPTOSA records overall approval of the Review Committee's recommendations on governance and management, but believes that negotiable powers should include more important functions than those mentioned in the report. SADTU proposes that negotiable powers be granted in consultation with key stakeholders, and explicitly exclude the hiring, transfer and promotion of teachers. The TO and the APT regard juristic personality as an important negotiable power for a governing body, and seek clarification on the intended interpretation.

23. There is a common concern about the importance of the GB being able to recruit more teachers with its own resources. The school's capacity to retain good teachers, and obtain new ones, is particularly important for the AB (Jhb). It believes there has been an erosion in competence in educational management. The AB states:

"Although there is appreciation for the fact that, apart from the basic powers given to schools, further negotiable powers may be accorded, we honestly believe that greater autonomy must be given to governing bodies if they have the management capacity. Serious consideration must be given to greater autonomy concerning the determination of admissions policy, language policy and the religious character of the school. It would be an act in the interest of the reconciliation of the South African community if, where circumstances were so to justify, and where no other individual or group were disadvantaged, the Afrikaans-speaking sector were permitted Afrikaans schools with a distinctive character."
(Translation from Afrikaans.)

District education authority

24. Few respondents commented on this proposal. One group thought that it appears to imply the old system of inspection. Another believes it would be of more value in rural areas than in urban areas. The TO asks for clarity on the authority to be exercised at this level, and states that on any district council it would be important for there to be equal representation of schools.

Independent schools

25. The ISC supports the proposals on the recognition and funding of independent schools, as does the TO. The AB (Pretoria) states that independent schools should be assured of a greater subsidy than at present. ECCTO believes that subsidy for these schools should not reach the level of state funding for public schools. SADTU believes there should be no subsidy for independent schools.

Funding options

26. There are indications of a reluctance to accept that an increase in education's share of the national budget is unlikely. The TO insists that more state resources must be found. The TO accepts the partnership funding approach (Option 3) but is not convinced that this will prove the best approach. Further investigation is required because there may be fruitful combinations of the models currently being considered. NAPTOSA accepts the partnership approach but insists that there must be no discrimination against schools with more expensive teachers. ECCTO also supports this model, has some suggestions on implementation, and agrees with the suggestion of a review after five years.

27. SADTU stands by the "free and compulsory education" principle, but says it will review this position in the light of scarce resources.

28. SATA favours the minimalist-gradualist route (Option 1) as this will not threaten excellence. A number of respondents express concern about the impact upon existing excellence of the importance attached to equity in the Report. SASOO, for example, states:

"The Committee's point of departure is...equity rather than fairness, as it is questionable whether it would be fair towards the country to promote equity at the cost of excellence and so to undermine the ability of the country to compete in world markets. It must be borne in mind that, in comparison to other schools in South Africa, the so-called privileged teacher-pupil ratio in the schools referred to above still represents a less favourable staff provisioning scale compared to the ratio in many of the countries against whom South Africa has to compete in the world market. The proposed teacher-pupil ratio of 1:35 and 1:40 will bring our staff provisioning scales close to those of the poorest countries in the world. So, although the ideal of equity may be morally justifiable, it does not reassure either those who wish to maintain high educational standards or economists who wish to build the economy on sophisticated labour."

(It should be noted that the Review Committee did not recommend any ratios, and had not been asked to do so.)

29. ECCTO suggests that the provinces be permitted to experiment with funding systems, and NAPTOSA suggests giving schools a choice of funding options from a menu of partnership possibilities.

30. On the payment of school fees there is a variety of views. SATA is against a sliding scale, and against a limit to a GB's power to set fees. Some

respondents express concern that the heaviest tax-payers will pay the highest fees. NAPTOSA predicts that large groups of parents will prove unwilling and difficult partners in the fee-payment process. A number of respondents point out the problems likely to be experienced in assessing and collecting fees. NAPTOSA queries the justice of paying similar fees at schools of very different quality. The TO, the APT and some other respondents maintain that it should be permissible to use fees for the payment of extra teachers. This is also the view of Parktown High School for Girls which states that voluntary contributions cannot provide a secure basis for a personnel budget. The AB (Wellington) states that a sliding scale has merit but GBs should be consulted on its implementation. On the report's suggestion that fees should not be used for luxuries, the AB questions the wisdom of having a departmental official determine what item of equipment should be considered a luxury in a given school.

Learners with special education needs (LSEN)

31. NAPTOSA explicitly accepts the report's recommendations on this matter. The TO warns of the potential problems in situations where responsibility is shared by a number of government departments. In the three responses from people involved in LSEN, the concerns expressed are that not all the relevant institutions be required to become public schools, that religious traditions be maintained, and that sponsoring bodies should not be under-represented on GBs.

Rural education

32. So far, no responses have dealt with the situation of schools in one or other of the rural categories.

Negotiated change

33. The only suggestions on negotiations are that Model C schools be given in trust to their respective school communities (TO) and that, in view of existing contracts, any phasing-out of Model C schools be gradual, preferably over at least three years (ECCTO).

Capacity-building

34. Where mentioned at all in the responses, the proposals are supported. SADTU asks that implementation be decentralised. AB (Jhb) recommends that planning should take place in co-operation with all stakeholders.