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CONFIDENTIAL

The Rt Hon Viscount Whitelaw CH MC  
Lord President of the Council  
Privy Council Office  
Whitehall  
LONDON  
SW1

21 October 1986

NBPA

Dear Willie,

**E(LF): COMMUNITY - FRAMEWORK OF DUTIES AND OFFENCES**

I wrote to you on 10 September, with copies to members of E(LF), setting out the details of the civil penalty system we propose for the enforcement of community charge registration. I have seen the responses of 18 September from Nicholas Ridley, of 19 September from Quintin Hailsham, of 29 September from John McGregor and of 2 October from Douglas Hurd. My reactions to the points they have raised are as follows.

Discretion for Registration Officers and levying authorities

There is no difference of view between Nicholas Ridley and me on the application of the civil penalty by Registration Officers or levying authorities. Their discretion in this context will be confined to the judgement of whether or not responsible persons have a reasonable excuse for their conduct, and will not, for instance, allow authorities to decide as a matter of policy that penalties will not be levied.

Legal Aid

As I indicated in my letter of 10 September, I have now considered the question of the availability of legal aid for appeals to the sheriff against the civil penalties. I have taken note of the arguments in Quintin Hailsham's letter of 19 September. I have concluded, in the light of the court caseload arguments and the fact that the costs for each side in an appeal might considerably exceed the sums at issue, that legal aid should not be available for these appeals. It would not be reasonable to spend taxpayers' money on the scale which would be required in disputes about small sums.

Enhanced penalty for repeated non-provision of information

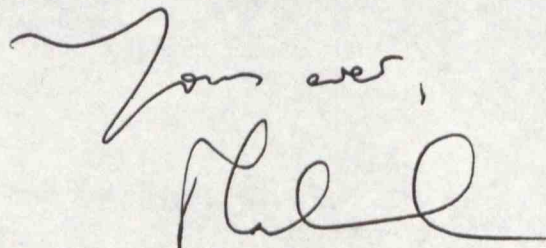
I have considered carefully the arguments deployed in Douglas Hurd's letter of 2 October. As he explains in relation to the criminal justice system, the effect of mitigated penalties for first offences will generally

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be to provide for a differential between the penalties for first and subsequent offences. But, because the civil penalty system I now propose will, for good reasons, provide for no discretion for authorities in relation to the amount of the penalty, any such differential will have to be built into the statutory system itself. I remain of the view that some form of enhanced penalty is necessary to deal with the small number of cases of people who continue to be deliberately obstructive or to provide palpably false information. In the interest of making progress with the drafting of my Bill, I would be prepared to accept a reduction in the figure of £400 I originally proposed. Douglas Hurd has suggested that the level should be £100 but I doubt whether that is a sufficient disincentive in cases where there could be significant sums at stake: instead I propose £200.

I would be grateful for confirmation that the proposals in my letter of 10 September, as modified above, have the approval of E(LF).

I am copying this letter to the members of E(LF), the Lord Chancellor, the Lord Advocate and the Attorney General; and to Sir Robert Armstrong.

A handwritten signature in dark ink, appearing to read 'Yours ever, Malcolm Rifkind'. The signature is fluid and cursive, with a large initial 'M' and 'R'.

MALCOLM RIFKIND



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