



cc BG

Prime Minister. ①

Policy Unit comments attached.  
Context, subject 15 colleagues?

Prime Minister

Admission  
the Act: dept?  
not

MEM 7/8

ROLE OF THE TREASURER

The purpose of this minute is to seek your agreement and that of E(LF) colleagues to my proposals, to be included in the Rate Reform Bill, to strengthen the position of a local authority treasurer in dealing with potential illegality and impropriety by his council. Colleagues will be aware of the proposal from discussion in MISC 109 and elsewhere. The details, on which Counsel has been instructed, were included in the first report of the official Working Group on Local Authority Financial Prudence which I circulated to colleagues with my letter of 25 June to John Major.

Background

The Green Paper "Paying for Local Government" proposed a specific statutory role for the Treasurer or Chief Finance Officer to strengthen his position in relation to the legality and propriety of the expenditure by his authority. Whilst this proposal was generally not well received by local government, I believe it will be an important factor in encouraging more prudential behaviour by local authorities.

The proposal

The scheme I have developed is with one exception as proposed in the Green Paper and as follows:

- (a) the Chief Finance Officer would be required to hold a recognised professional qualification. Most already do and this is simply a slight tightening up to ensure against rogue appointments in the light of the new duties proposed below. Those Chief Finance Officers now in post, but without qualifications, would not be debarred.

Presumably  
this is a  
financial qualification  
- a legal one  
would not be  
authorised

(b) The Chief Officer would be under a duty

i to make a report to his authority in respect of any decision of the authority which would in his opinion involve the making of a payment contrary to law or in respect of any act or omission which would be likely to cause a loss or deficiency because of wilful misconduct.

ii to make a report to his authority if at any time the expenditure proposed to be undertaken by the authority in any financial year, together with the expenditure incurred already if any, would in his opinion be likely to exceed the resources available to the authority to finance their expenditure.

iii to send a copy of any report under (i) or (ii) above to the auditor.

(c) The authority receiving such a report is to be required to consider it at a meeting within 21 days, and not to make any payments in relation to the subject matter of the report until it has done so. The report should be public and the public allowed access to the meeting.

The main effect of the scheme therefore is to ensure that the Treasurer draws matters of illegality and impropriety to the attention of the council, its auditor and the public. The reports should provide one basis on which the auditor could issue a stop notice - using the narrower element of the powers proposed in my letter to the Lord President of 17 July. If a council considers a Treasurer's report and then proceeds with the action (or inaction) which it is aimed to deter, the reports would provide important evidence in any case for the surcharge/disqualification of the Councillors concerned.

*the his  
legal authority  
advisable for  
this judgment?*



The element of the original Green Paper proposal which I have set aside in this scheme is the requirement that the Treasurer certify the taxing resolution of his authority. I believe this would put too much strain on the relationship between the officer and his councillors, and that it is anyway unnecessary. If the proposed budget of an authority is out of balance this is something on which the Treasurer would be required to report. The auditor could then issue a stop notice because it is unlawful to budget for a deficit.

I should also note here that my proposed approach is inconsistent with Widdicombe's view that all functions related to the propriety of council business should be vested in the Chief Executive. I take the view that matters relating to financial propriety should be left with the professionally qualified Treasurer.

#### Conclusion

I would be grateful to know urgently whether you and colleagues are content with the approach I have adopted.

I am copying this to members of E(LF) and Sir Robert Armstrong.

*R. J. J.*

*PP*

N R

5 August 1987

*(Approved in draft by the Secretary of State and signed in his absence.)*

