

PRIME MINISTER

P 03655

COMMUNITY CHARGE CAPPING 1990/91
Minute of 23 March from Mr Patten

DECISIONS

1. There are two main questions: first, whether to use the power to cap community charges in 1990-91; and second, if so, what the criteria for selecting authorities to be capped should be. Mr Patten needs decisions by the end of the week if he is to meet his timetable.

2. You will wish to discuss:

i. whether any authorities should be capped. The Government will be seen to be protecting chargepayers against some excessive community charges. But there are also disadvantages, particularly the certainty of widely publicised anomalies, and the risk of keeping acrimonious debate over the community charge alive over the summer. Mr Patten concludes on balance that the capping powers should be used.

ii. which authorities should be selected for capping. Mr Patten proposes criteria which would select the 21 authorities listed in table B to his paper.

iii. the size of the cap for each selected authority. Caps have to be set in the light of each authority's individual circumstances, not on general principles. Mr Patten's proposals, also in table B, would require expenditure reductions of £250m and cut community charges by between £26 and £100.

3. You will also need to decide whether the capping powers should be used in Wales and Scotland. I understand that Mr

He accepts he must have the same criteria as England; and on Mr. Patten's proposals no Welsh authorities are caught. Pp. 6.

Walker has decided against capping Welsh authorities, which would require much more stringent criteria than are proposed in England. In Scotland, no authorities were capped in 1989-90, and I understand Mr Rifkind is unlikely to propose the use of capping for 1990-91.

I have confirmed he will not. Pp. 6.

PURPOSE OF CAPPING

4. The Green Paper "Paying for Local Government" said that accountability under the community charge would not be fully achieved during the transitional period and that the Government therefore proposed "to retain a power, similar to the selective rate-capping power, to prevent irresponsible authorities from imposing excessive burdens on their taxpayers" (paragraphs 5.27 and 5.28).

5. E(LF) had two discussions of capping in July 1987 (E(LF)(87)11th and 19th meetings). Mr Ridley, then Secretary of State for the Environment, doubted the value of charge-capping powers. But E(LF) decided that they would be essential, on a permanent, not just a transitional basis.

6. E(LF) accepted Mr Ridley's proposals for the form of such powers. These involve capping within the year in question, immediately after authorities have set their budgets and charges. They follow the rate-capping system employed in Scotland rather than in England (where authorities have been rate capped in advance of the year in question). E(LF) accepted that with this system it might not be practicable to select as many authorities as previously, or to require such large expenditure reductions. But they agreed that the advantages of immediate action against overspending outweighed these disadvantages.

MAIN ISSUES

Use of the capping powers

7. The main arguments in favour of capping in 1990-91 are:

i. The Government's stance has been that if authorities budget excessively, it will cap them. Some authorities have now clearly set excessive budgets, resulting in very high community charges. Capping is the only mechanism available to protect chargepayers.

ii. Capping will cut General Government Expenditure (GGE) through cuts in budgets and in a small degree the RPI through cuts in charges (we understand that cuts totalling £240 million should reduce the RPI by 0.1%).

iii. A decision not to use the capping powers in 1990-91 would give a clear signal to local authorities that they will never be used, which could have adverse implications for budgets and charges in 1991-92 and subsequent years.

8. But, as Mr Patten makes clear, there will be disadvantages:

i. There is bound to be disappointment that some high-spending authorities are not capped.

ii. Capping could keep the community charge in the public eye over the summer, particularly if capped authorities claim that they have to make cuts in sensitive areas such as education.

iii. There will be anomalies which will be difficult to explain to the public: see annex C to Mr Patten's paper. Some high charges will not be caught (eg Hackney at £499, the 4th highest) while some relatively low charges will be capped (eg Calderdale at £297, well below average). One (Haringey) will also be capped although it sets its charge at the level assumed by the Government for transitional relief. And some charge payers may even be worse off because of capping: see (f) in annex ~~P~~. C.

iv. It will be administratively complex and expensive for capped authorities to have to issue new community charges bills and ~~recalculate~~ transitional relief and rebates. Some district councils will be particularly aggrieved where it is the county which is capped (eg in Avon and Derbyshire).

Criteria for selection

9. Mr Patten proposes that an authority should be selected for capping if:

i. its budget is excessive in that it exceeds the authority's standard spending assessment (SSA, its needs assessment for grant purposes) by more than £75 per adult and by more than 12.5%; and

ii. its budget also exceeds these criteria by at least £26 per adult. This proviso is designed to ensure that no authority is capped unless a reasonable reduction can be required in its budget and community charge.

10. These criteria operate only on the absolute level of an authority's spending in relation to SSA. They make no use of the second option provided by the legislation which allows selection where the increase in expenditure compared to the previous year is excessive.

Scale of capping

11. Mr Patten's proposals would cap 21 authorities. This is broadly in line with the scale of rate capping. You will want to consider whether there is a case for seeking to cap more authorities. The main advantages would be that more chargepayers would benefit from reductions; there would be a larger enforced cut in spending; and the effect on the RPI would be greater. The main disadvantage would be that capping might be

more controversial, particularly if some Conservative-controlled authorities were selected; and there could be a greater risk of successful legal challenge. The proposed timetable envisages an announcement by 3 April and responses from authorities before the 3 May elections: this could also be put at risk, as DOE say they do not have the skilled staff necessary to cap significantly more authorities in the time available.

12. The timetable/manpower point is probably the most convincing argument against wider capping. But it may not rule out a modest increase in the number capped, perhaps to 25-30. If you feel that capping should be extended, you may want to ask Mr Patten to explore the possibility of selecting this number of authorities.

Detailed Criterion

13. You will also wish to consider whether you are content with the detailed criteria Mr Patten proposes, and the resulting list of authorities. Some of the main issues are:

- i. no use of a selection criterion based on excessive increases in expenditure. Mr Patten argues that to use such a criterion would be too risky legally, given that the baseline would need to use notional 1989-90 figures, adjusted for changes in functions. But such figures have been used for the transitional relief scheme and Mr Patten has specific powers to construct a baseline for capping in 1990-91. Such figures as we have suggest that an excessive increase criterion would select a number of shire counties (eg Oxfordshire and Berkshire, both increasing spending by more than 20%) and some additional London and metropolitan boroughs (eg Kensington and Chelsea, Birmingham and Sandwell). You may wish to ask Mr Patten to look again at the possibility for an excessive increase criterion, probably alongside criteria based on excessive absolute spending levels.

ii. failure to select some authorities with very high charges, eg Hackney (£499), Liverpool and Newham (both £449). All these authorities are spending much more than £75 per adult above SSA. They are not selected because, after adjustments, their spending is not sufficiently far above SSA in percentage terms to meet the 12.5% criterion. A modest relaxation in the criterion would bring them in: see below. You may want to ask Mr Patten to explore this.

iii. selection of Haringey, which has set a charge below the level assumed by the Government for transitional relief. Mr Patten argues that the use of an assumption based on past spending does not mean that the Government has endorsed that spending level. This may not be the public perception. On the other hand Haringey's charge is the second highest in England and you will probably agree that it should be capped provided Mr Patten is confident that this is safe from legal challenge.

Other possible options

14. It is not easy to know what changes in the criteria are worth exploring without experimenting with the material. But we understand, for instance that if the £75 criterion were to be dropped, so that authorities were only selected by reference to whether their budgets exceeded their SSA by 12.5% plus £26, this would add another 8 authorities to Mr Patten's list, making 29 authorities which would be capped in all:

Blackpool
 Brighton
 Ipswich
 Leicester
 Middlesborough
 Milton Keynes
 Southend-on-Sea
 Stockton-on-Tees

15. Alternatively, if the 12.5% criterion were to be dropped, so that authorities were selected if their budgets exceeded their

SSA by £75 plus £26, this would catch 36 authorities, adding the following to Mr Patten's list:

Hackney*
Newham*
Tower Hamlets*
Lewisham*
Ealing
Hounslow
Kirklees
Liverpool
Newcastle-on-Tyne
Sandwell
Tameside
Walsall
Waltham Forest
Cumbria
Northumberland

(nb. the authorities marked * would still be caught if the criterion were whether they exceeded their SSAs by £100 plus £26.)

16. This information needs to be checked and analysed if you want to pursue these options. But it gives some idea of what possibilities it might be worth asking Mr Patten to explore.

Proposed caps

17. Once an authority has been selected, the cap proposed for it has to be based on a judgement about its individual circumstances. Counsel has advised that caps cannot require cuts to below the level at which spending is judged to be excessive: that is, to below £75 per adult or 12.5% above SSA. The maximum possible reduction in spending for the 21 authorities which Mr Patten proposes to select is £311m. In practice, the caps he proposes would require cuts of £250m. This is a high proportion of the maximum potential reductions, and you will probably want to endorse the proposals if you agree with his selection of authorities.

Wales and Scotland

18. Separate decisions on capping are needed for Wales and Scotland. I understand that no authorities in Wales would be caught by the selection criteria proposed for England. Mr Walker has nevertheless considered capping between one and three

authorities in Wales. But this would require selection criteria significantly tighter than in England, and you will probably want to accept his view that no Welsh authorities should be capped.

19. In Scotland, no authorities were selected for capping in 1989-90, the first year of the community charge. I understand that Mr Rifkind does not propose to exercise his capping powers in 1990-91, which are more restrictive than those in England and Wales (requiring that expenditure is unreasonable as well as excessive). The expenditure increase there is lower than in 1989-90, and you will probably want to accept his decision.

Next Steps

20. At the end of the meeting you will wish to decide how to handle Mr Patten's proposals. We have arranged two meetings of E(LG), one at 4.30 on Tuesday, one before Cabinet on Thursday. One possibility might be to cancel the formal E(LG) on Tuesday and to have another small group then instead to continue the discussion, possibly bringing in some of the other interested Ministers. The service Ministers (eg. Home Office, Education) may be concerned about the implications of capping for spending on their services.

RJ.

R T J WILSON
Cabinet Office
23 March 1990

PRIME MINISTER

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COMMUNITY CHARGE CAPPING

Although your natural instincts are to go for as much capping as possible, we believe that the arguments against are extremely powerful and far outweigh those in favour. Despite what has been said in public, we believe that there are very strong grounds for not capping and accepting any embarrassment it may cause, rather than proceeding with what could be a hiding to nothing.

There are basically five sets of arguments:

(1) Presentational

- Though →
this was
also true
of rates.
Rec.*
- capping budgets not charges. Some low charges capped; many high ones not. Impossible to explain to voters. (This is one reason why you decided against capping in Scotland last year);
 - anomalies. For example, some people on income support will pay more not less because of social security 'de minimis' rules. Impossible to explain;
 - long drawn out business. Capping and 'cuts' in the headlines all summer. Will overtake next year's settlement decisions in June/July. Media will have a field day.

(2) Arbitrary Criteria

- whatever criteria are chosen, there will be an arbitrary cut-off point. Those below - especially