

PRIME MINISTERCHARGE CAPPING: LAMBETHBackground

After their budget was capped to a lower level this year, Lambeth Borough Council sought to evade reducing the Community Charge by the full amount of the reduction in their budget.

By increasing the assumed rate of non-payment of community charge, between April (when their original Community Charge was set) and the revised charge (following capping in June), Lambeth prevented the full benefits of the lower budget passing through to Community Charge payers.

The Environment Secretary challenged this in the courts; but he lost both the original case and at the Court of Appeal.

DOE Proposals

In the attached minute (Flag A), Mr. Patten explains that he proposes not to petition the House of Lords for leave to appeal. The prospects of success at appeal are remote. The Solicitor General agrees that it is best not to take the legal case further.

It has therefore become essential to take new legislation in order to plug this particular gap in the Government's capping powers. Where the Government caps a local authority's spending, the full benefits must be reflected in lower Community Charges. This is particularly important given the more powerful use of charge capping powers proposed next year. I understand Mr. Patten's proposals will be commendably tough: in principle as many as 120 councils could be capped. So it is essential to prevent potential leakage into higher charges (or higher spending in later years).

Mr. Patten proposes a short bill to require a local authority to use the same assumption of non-payment rate in its capped budget as in its original budget. The bill is already drafted: it is sufficiently narrow in scope not to be vulnerable to difficult amendment.

#### Policy Unit Proposal

Attached is a minute from Policy Unit (flag B) which argues that, in seeking to make cuts after capping, LAs should not reduce delegated schools budgets but rather central administrative costs. Two approaches are floated: exhortation; and legislation by extending the 'Lambeth' bill.

Exhortation seems attractive. It is only sensible to prune back central administration. You are already aware of the variations in the proportions retained centrally and the amounts distributed to local schools under local management of schools (LMS). DES need to do more to get a fair amount of delegation. And I understand from Mr. MacGregor that he plans to lay an Order further restricting the scope to retain money centrally under LMS.

But I could not commend the idea of legislation.

- It is difficult for the Government to require cuts under the capping powers and then argue that over 60 per cent of the typical county's budget should be untouched. The issue would not be seen as attacking central budgets rather than local service delivery. Instead the question would be: does the Government favour cutting police or social services budgets instead? (Almost all "central" money is allocated to one service or another).
- Such legislation would increase the risk of successful legal challenge to the Government's capping powers. It would also extend the scope of the Lambeth bill - making it more vulnerable to unwelcome and divisive amendments.

- It would be counterproductive. It could and would be evaded by creative accounting. Local councils would simply pare their delegated schools budget to a minimum in the original budget. The fat would be elsewhere. The overall outcome could be lower delegated schools budgets.
- It is against the nature and spirit of capping powers. The Government can say a budget is excessive. Where to cut should be a matter for local choice, subject to meeting minimum statutory standards.

It is also important to keep the problem in perspective. Chris Patten told me this morning he believes that the new capping process will have a major deterrent effect - so relatively few of the 120 councils may in fact need to be capped.

Finally the last point on the Policy Unit note on budgets for GM schools is important. My understanding is that GM budgets would be reduced pari passu with any cuts after capping. Mr. MacGregor needs to look for a way around this.

#### Conclusion

- i) Content to approve Mr. Patten's proposed short bill to reverse the court judgement on Lambeth? *Yes*
- ii) Content for me to put forward Policy Unit's proposals for exhortation to cut central administration? *Yes*
- iii) Wish to pursue the idea of extending the legislation to prevent cuts in local authority delegated schools budgets? *No*
- iv) Wish to alert Mr. MacGregor on the possible implications for GM schools? *Yes*

*BHP*

Barry H. Potter

18 October 1990

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