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CABINET

MINISTERIAL COMMITTEE ON ECONOMIC STRATEGY

LOCAL AUTHORITY CURRENT EXPENDITURE 1980/81

Memorandum by the Secretary of State for the Environment

1. We have asked all authorities in England and Wales to review their plans for all services and send us new returns by 1 August. Every authority has been shown its actual volume of spending in 1978/79 less 2% and asked to get at least down to this level, and further if possible.
2. If the target is expressed as 100, the budgets are at present 105.6. 1% excess equals about £160m at estimated out-turn prices. So we are looking for a reduction of nearly £900m. We will not be able to get a fair picture of the authorities' response before September and the purpose of this paper is therefore twofold. First to put before colleagues the options I see in order to get local government back on course. Second, to give colleagues every opportunity to put forward any other suggestions they may wish to have explored in good time. At this time no decisions are needed except as set out in para 8 and 18.
3. I do not know how the 455 local authorities will respond but if I hazard a guess at this stage based on my closeness to the scene and to my reading of the latest manpower returns for local authorities (70% of current local government expenditure being manpower they are, in my view, a better test of what is happening than the RER returns), I would say this.
4. About half the £900m is attributable to traditional overbudgeting in the RER. There is a tendency for overprovision for such matters as inflation; at the end of the day such overprovision finds its way into balances higher than would otherwise be the case. Furthermore local government may hitherto have underestimated the significance of the RER to central Government, and may have used varying baselines and differing assumptions in completing the forms, which are very rarely seen by elected representatives.
5. Provided a majority of local authorities respond to the call for revised budgets, my best guess is that we will be faced with a budget figure of 2%-3% (£300m-£500m), above our targets, about half of which on past performance would not in the event be spent.
6. In September we shall have to decide in the light of the new facts what action is required. I set out the options as I see them.

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Possible Action in 1980/81

7. If aggregate revised budgets show a small overshoot against the target of 100 it would be possible to take no action on "de minimis" grounds. Budgets at about 102-103 might be held to represent a reasonable effort by local government to respond to our request, even if this still conceals some potential volume excess, but this could bring into question the credibility of our stance on local government spending. I would advise against taking such a view.

8. Offsetting reductions in capital expenditure could be sought through a moratorium on new capital projects, although this would accelerate the unhealthy trend towards cutting investment to protect jobs and authorities could evade the impact of a moratorium to a limited extent, eg by use of revenue financing where specific approvals are not needed. If we withdraw all unused or uncommitted borrowing approvals as well as stopping new approvals in September maximum savings would not exceed £220m. My present legal advice, however, which I am still considering, suggests that there may be grounds for challenge in the courts if we withdraw approvals. If we exclude withdrawals, savings might be about £40m, provided that we now agree that only essential new approvals should be issued in the meantime. No urban programme approvals, capital or current, can be withdrawn because the Government have already committed themselves by advance payment of grant.

9. Reductions in the RSG cash limits in November would cut the amount of grant to be paid to authorities in 1980/81, and put pressure on authorities by reducing their cash flow. This would result in extra local authority borrowing, higher rate increases, or reduced expenditure in this year or in 1981/82 - or more probably an unpredictable combination of all three. Reductions would be proportionate to grant entitlements. They would therefore be harshest in areas of high needs and low resources where entitlements are highest - in particular Wales, the East Midlands, and the North. They would be additional to losses under the normal resources element "clawback" (about £100m this year) which most affects areas with the lowest resources - Wales, the North and the South West.

10. The RSG transitional arrangements, though not suitable for application to more than about 20 authorities, could play a useful part since the grant penalties would largely affect inner London authorities that would suffer relatively small cuts under a general cash limit reduction. We would need to consider the scale of penalties including the possibility of a maximum penalty, and a 'waiver' of penalties for exceptional efforts to cut expenditure, against the background of any decisions on a general cut in RSG.

Possible Action in Future Years

11. From 1981/82 we shall be able to take account of local government's expenditure behaviour when reaching the normal decision on the amount and distribution of RSG for 1981/82. That settlement should be based on the proposed new block grant which will allow us to put differential pressure on overspending authorities (ie in relation to assessed spending needs) although "overspenders" will not necessarily be authorities who have failed to cut volume.

12. Grant cuts reduce central government expenditure but at a local level some authorities might preserve spending at the additional expense of their ratepayers.

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13. The new capital controls system can be used to cut capital spending in 1981/82 by enabling reduced allocations to be made across the board. We could "clawback" from capital allocations for 1981/82 a sum equivalent to any estimated current expenditure volume excess in 1980/81, and also "hold back" part of next year's capital allocations against the possibility of another current expenditure excess in 1981/82. We would have to justify this, for legal reasons, on grounds of national economic and financial circumstances rather than by reference solely to the level of local authority current expenditure.

14. A combination of "clawback" for a 1980/81 current expenditure volume excess and a "holdback" against a 1981/82 excess could account for the larger part of uncommitted capital expenditure about £1000m in 1981/82 eg a "clawback" equivalent to say 2% of estimated local authority current expenditure in 1980/81 (£320m) plus a "holdback" equivalent to 2% of such expenditure in 1981/82 (also £320m) would together amount to nearly two thirds of uncommitted capital expenditure next year.

15. Authorities might try to mitigate the effect of capital allocation cuts by using capital receipts and the 10% flexibility provision but this would reduce their spending capacity for future years, although this effect would take a long time to work through. For capital expenditure on transport, retentions are likely to be difficult because of the statutory basis of Transport Supplementary Grant.

16. I also propose in any event to redistribute uncommitted urban programme resources for 1981/82 by running down programmes for authorities making wasteful overall use of resources and/or failing to cut current expenditure volume.

17. Colleagues will realise that each of these weapons has weaknesses. We want to get specific local authorities to reduce their current expenditure programmes. We have no powers to do so and therefore have to resort to generalised, rather blunt pressures that often hit those that are behaving in an exemplary way. I am trying to devise a system which would achieve our purposes directly. I am concerned that the practical difficulties may be of such a scale as to persuade us not to pursue this option. The Annex expands on the arguments.

Conclusion

18. I propose to submit proposals to colleagues early in September if there is an unsatisfactory outcome to the call for revised budgets in the light of discussions of the options set out in this paper. In the meantime I invite colleagues to agree to establish a close control over approvals for local authority capital schemes until we can take final decisions in September (paragraph 8).

Department of the Environment  
2 Marsham Street  
SW1

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OUTLINE OF A SCHEME FOR CONTROL OF CURRENT EXPENDITURE IN AUTHORITIES FALLING TO MEET CENTRAL GOVERNMENT EXPENDITURE TARGETS

Legislation

1. The legislation would need to provide for:
  - (a) a definition of "current expenditure expressed in volume terms";
  - (b) a requirement for authorities to submit information about current expenditure decisions for the coming year;
  - (c) power to set a mandatory current expenditure target (eg, a 4% year-on-year reduction between 1978/79 and 1981/82) by statutory instrument, probably affirmative resolution procedure (failure to meet this target to render an authority liable to control by central government of its current expenditure);
  - (d) power to issue directives intended to secure control of an authority's current expenditure;
  - (e) a power, where the Secretary of State judged it necessary in order to secure compliance with targets, to dismiss a council and to entrust the administration of the authority to a commissioner.
2. The legislation would be complex, particularly in relation to the commissioner; it would require close examination of the multitude of statutes defining local authority duties, since with the appointment of the commissioner the Secretary of State would himself assume these responsibilities. It could not therefore be enacted before the 1980/81 session of Parliament.

Timing

3. The statutory returns of current expenditure plans would be submitted in April/May after authorities had set their budgets. Authorities in apparent default would have to be given an opportunity to make representations about matters of fact. After that, they would be asked to revise their budgets to bring them on target and submit revised returns. This process would take until August/September. Authorities would already have entered into contractual commitments for large items of expenditure (eg, teachers' salaries) and the scope for achieving the target by expenditure cuts in the remainder of the financial year would be much reduced - particularly if the likelihood of an overshoot on revised budgets did not become clear until even later in the year.

Sanctions

4. There are three stages at which sanctions might be applied:
  - (a) authorities refuse to give information at the outset;
  - (b) authorities refuse to revise their budgets;
  - (c) monitoring shows that revised plans have not been followed.
5. The first might be dealt with by putting a statutory duty on a specified officer (failure to comply would normally be punishable through the "mandamus" procedure leading, if successful, to committal for contempt). The other two involve intervention in the affairs of the authority, through a statutory direction and ultimately in some cases the appointment of a commissioner. Compliance with a direction would depend on the co-operation of councillors and officers. Back-up powers would be needed either in the form of "mandamus" (see above) or provision for

for fines. If despite the threat of these penalties some authorities refused to co-operate - as would no doubt be the case in some areas - a commissioner would have to be appointed. A commissioner would be heavily dependent on the officers of the authority who would be required to work at an unusually fast pace in order to prepare revised budgets. It would be difficult to contemplate penal sanctions against strike action or working to rule, and quite impracticable to use them to enforce exceptional effort.

Main problems

6. The main problems which arise with such an arrangement appear to be:

- any direction to cut expenditure that could be argued to involve a breach of a statutory duty would be challengeable at law;
- the normal sanction for failure to comply ("mandamus") involves imprisonment;
- the process is probably too slow to achieve required expenditure cuts within the same financial year;
- it is hard to see how control could be relinquished unless the majority party in the area were willing to change its expenditure policies;
- a determined authority could force the appointment of a commissioner and there are no obvious methods of obliging the staff of an authority to co-operate with a commissioner;
- even if the staff did co-operate, it would be difficult for the commissioner as an official to take the political decisions that would be required on service priorities, the level of rates, etc.
- the operation of the scheme is bound to involve substantial additional specialised central government staff, even if only a handful of major authorities were involved;
- it is not clear that making an example of a small and untypical group of authorities will help secure the compliance of the majority with overall current expenditure volume targets.