



Local Govt

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P.0721

PRIME MINISTER

The GLC and London Transport

(E(82)36)

BACKGROUND

In E(82)36, the Secretary of State for Transport seeks agreement to an early announcement to the effect that the Government intends to introduce legislation in the next session to establish that a reasonable but not excessive level of subsidy for London Transport (LT) from the rates is legitimate. He also proposes to indicate to Mr Livingstone, the leader of the Greater London Council (GLC), that the Government will make available resources in 1983-84, for both capital and current purposes, at roughly the same level as in the current year.

✓ — 2. The Committee last considered LT in January (E(82)1st meeting). It decided, among other things, that officials from Transport and other departments, including the CPRS, should examine the options for longer term arrangements. This work is in hand in MISC 70. Also relevant is the work described in the minute to you of 16 April from the Secretary of State for the Environment (not copied to all members of the Committee) on the future of the GLC and the Metropolitan County Councils. There are also studies in hand on the alternatives to domestic rates, and on the financing of education which were commissioned by the Cabinet on 4 February (CC(82)4th conclusions, minute 5) and a CPRS study, which is to provide a framework for the whole range of work on local government structure and finance. It is intended that papers on all these matters should be brought together for consideration by Ministers at end-May/early June.

3. The Select Committee on Transport is also studying the position of LT.

4. The statutory position governing subsidy for transport services by other MCCs differs from the legislation covering the GLC. It is, however, open to

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question whether it is possible to treat the two sets of authorities differently.

MAIN ISSUES

5. There is likely to be little opposition to the proposal that Mr Livingstone should be given an early indication of the resources that the Government is willing to make available in 1983-84. If so, the main issues will be:

- (i) whether the Government should make an early statement about the financial relations between the GLC and LT;
- (ii) if so, what its content should be;
- (iii) whether any statement should also cover the position of the MCCs; and
- (iv) the precise timing of any statement.

An Early Statement?

6. The Secretary of State for Transport is understood to be concerned that he is losing the propaganda battle with the GLC. The GLC have legal opinion to the effect that, without legislation, LT is doomed to decline. This makes it more difficult for the Government to take the line that the problems of LT are mainly due to an unnecessarily restrictive interpretation by the GLC of their powers of subsidy. The Secretary of State fears that the GLC will force LT to reduce services and manpower on the grounds that this is the unavoidable result of the law; they will then foment industrial action, and seek to pass the blame on to the Government.

7. You may, however, wish to question whether a fairly unspecific statement of the sort which the Secretary of State appears to have in mind could prevent this course of events. If the GLC want to make trouble they will exploit any ambiguities or uncertainties. They could well say that the inevitable uncertainties of politics and the Parliamentary timetable, and the lack of precise definition of the power of subsidy which the Government intends to legitimise, make it imprudent for them to plan except on the basis of the

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existing law. Meanwhile, the Government would come under pressure from the GLC to give undertakings, which it might later regret, about the content of the legislation.

Nature of statement

8. Any statement at this stage may cut across the conclusions which Ministers will reach on the work of MISC 70 and the other local government matters referred to above. It may also be criticised by the Select Committee as ignoring their work. The more specific the statement, the greater the dangers. You may therefore wish to probe in more depth the alternatives discussed in paragraph 4(i) and (ii) of E(82)36.

Further legal opinions

9. A statement of Government legal opinions (paragraph 4(i)) would no doubt be dismissed by the GLC; but it might help persuade public opinion that it was the GLC, not the Government, which was to blame for the difficulties of LT.

Indemnity

10. An indemnity (paragraph 4(ii)) would obviously need careful consideration if it were not to be a blank cheque. In his minute of 20 April Mr Sparrow has suggested that some form of limited and conditional indemnity might be worth exploring. It might be possible to build on an existing procedure, whereby a local authority can seek sanction from the Secretary of State for defined expenditure. Such a sanction confers immunity against challenge by the District Auditor (and therefore avoids any risk of personal liability for the members of the GLC), but does not necessarily offer a safeguard against a challenge, as in the Bromley case, to the legality of the precept that would be required to finance the expenditure. However, this course of action is also likely to lead to difficulties. The GLC would probably argue that personal immunity against challenge by the District Auditor, but not against challenge to the expenditure in the courts, does not go far enough. In any event the Government would be drawn into defining the amount and type of expenditure which it approved. This raises the fundamental policy issues about transport financing which MISC 70 is still considering and which Ministers will be discussing at the end of May.



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Position of MCCs

11. It is difficult to defend a situation in which the legal powers of the GLC differ significantly from those of other MCCs. An early statement could be challenged on this point. On the other hand, it would create further complications if it were desired to cover them; and the risk of cutting across other work would be correspondingly greater.

Timing

12. No doubt the Secretary of State will be anxious to make any statement before the London Borough Elections. The Government will be pressed to indicate its position on Friday 23 April, when Mr Douglas Jay's Bill on LT Finance is due for discussion.

LEGISLATIVE PROGRAMME

✓ 13. A possible need for a Transport Bill next session is mentioned in C(82)10, though it is not among the Bills recommended for a firm place.

HANDLING

14. After the Secretary of State for Transport has introduced his paper, you may wish to ask the Secretary of State for the Environment to comment, in particular, on the implications of other work in progress on Local Government Finance. It might then be convenient to consider the nature of any statement (and whether it would succeed in achieving its ostensible purpose) and its timing. The Attorney General is understood to have views on the question of the Metropolitan County Councils. No doubt the Chief Secretary, Treasury, will have comments from the standpoint of public expenditure.

CONCLUSIONS

15. In the light of the discussion, you will wish to record conclusions on:

- i. whether an early statement should be made about financial relations between the GLC and LT;

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- ii. if so, what its nature should be, and in particular whether it should commit the Government to legislation next session;
- iii. whether any statement should also cover the position of the Metropolitan County Councils;
- iv. the exact timing of any statement;
- v. whether any further studies are required, particularly in the context of the work of MISC 70;
- vi. whether the leader of the GLC should be given an indication of the level of Government assistance likely to be made available in 1983-84.

PLG
P L GREGSON

21 April 1982

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✓ C. J. V.
Prime Minister (2)

For discussion at E on
Thursday. These seem to
me powerful
points.

Qa 05897

To: MR SCHOLAR
From: JOHN SPARROW

Ms 20/4

GLC and London Transport (E(82)36)

1. The result of the Lords' judgement on London Transport (LT) was uncertainty about whether LT could budget for a deficit. The uncertainty is unsatisfactory: some level of subsidy is essential, and legislation is inevitable at some stage.
2. MISC 70 was set up to examine options for public transport in the conurbations - including radically different arrangements. In the light of its report, Ministers will be able to decide the form of legislation on subsidies. But the Secretary of State for Transport is now proposing (in E(82)36) that he should shortly announce the Government's intention to introduce legislation in the new session, in order to establish as legitimate a 'reasonable', but not an 'excessive' level of subsidy for LT. The reason for the haste is a series of legal opinions obtained by the GLC and LT which imply that LT must try to budget to break even in 1983.
3. But such a statement will leave a good deal of uncertainty until the form of the legislation is known. It will obviously be very difficult, and may even be impossible to devise a form of legislation which entirely removes the uncertainty by defining what is to count as 'reasonable' and what 'excessive'. Hence such a statement may well not prevent the GLC from continuing to blame the Government for the uncertainty. There is also the risk that a necessarily vague statement about the intention to legislate will be interpreted as a climb-down from the Government's previous position.
4. There appears no way of resolving the impasse satisfactorily until MISC 70 reports in about a month's time. Together with the Select Committee's report and the other exercises on aspects of local government,



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this will enable Ministers to form a view about the overall future direction for local government. To announce legislation now will be taken to mean the continuation of broadly the current arrangements. It would make it more difficult for Ministers to decide on more radical options later if these had to be presented as 'second thoughts' by the Government.

5. If the Secretary of State convinces his colleagues that some further action is needed before MISC 70 reports (beyond telling the GLC that Exchequer support will be continued at roughly its present level, as he proposes in paragraph 7), then the CPRS believes that the most promising option is some form of limited and conditional indemnity. He might be invited to explore this option further, to see whether it can be defined so as to avoid a blank cheque.

6. I am sending a copy of this minute to Sir Robert Armstrong.

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