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Chancellor of the Duchy of Lancaster

CABINET OFFICE,
WHITEHALL, LONDON SW1A 2AS

Prime Minister

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MUS 13/7

12 July 1983

Dear Patrick,

RATE LIMITATION LEGISLATION

There are two points I would make on your minute of 29 June to the Prime Minister

1. The Criteria for Selection

This is essentially a matter for the lawyers: but I instinctively share John Sparrow's view that there is serious risk of legal challenge if so ill-defined a test as "excessive expenditure" is used. The Courts could well take the view that expenditure was not "excessive" unless it was so outrageously excessive that no one could reasonably pretend otherwise. The essence of the problem is that what we regard as "excessive" a lot of people do not regard as "excessive": and the Courts might well decline to arbitrate between the two.

If criteria are specified they do not have to be specified in an exclusive sense. It does not follow therefore that specifying necessarily "constrains us too much". On the contrary, it could greatly strengthen our hand.

2. De Minimis Exclusion

The genesis of the proposals was hardship and unfairness to the ratepayer. How therefore do we defend excluding the victims of "small authorities" from the relief we propose? I well understand the merits of exclusion: but surely there should be some test of reasonableness.

I am copying this letter to Cabinet colleagues, the Attorney-General, the Chief Whip and to Sir Robert Armstrong.

COCKFIELD

The Rt Hon Patrick Jenkin MP
Secretary of State for the Environment
Department of the Environment
2 Marsham Street
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Local Govt,
Rating Resolution,
Pt 2



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