



cc: NRO.  
Prime Minister ①

Agree 1-4 as set out in Summary subject to colleagues? (I understand Chief Secretary may accept majority view on capital controls)

Yes not.

BT 2/12

PRIME MINISTER

ABOLITION OF THE GREATER LONDON COUNCIL (GLC) AND METROPOLITAN COUNTY COUNCILS (MCCs)

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 When I minuted you on 20 September I said that I should report further about countering possible obstruction to our policies for local government. This minute reports the conclusions of the Ministerial Group on the Abolition of the GLC and the MCCs (MISC 95) about obstruction in the context of abolition. I am minuting you separately about obstruction in the context of rate limitation, including the question of takeover of obstructive authorities.

#### Information

MISC 95 are agreed that a power should be included in the abolition paving Bill proposed for the 1984-84 Session to require councils and officers to provide information needed in connection with the abolition of the GLC and MCCs; and that this power should be enforceable by mandamus, rather than by any criminal sanction.

#### Other measures

On the Group's instructions, officials under the chairmanship of my Department considered a number of measures to counter obstruction stopping short of takeover of the authority concerned. They were:

- (a) a control on salary levels and promotion similar to Section 261 of the Local Government Act 1972;
- (b) a control on excessive recruitment;
- (c) a control on capital contracts.



All three would require legislation.

#### Salary levels and promotion

The Group were agreed that a power on the lines of (a) should be included in the abolition paving Bill. This would provide for scrutiny of salaries and promotions through an advisory body representative of local government, backed up by powers of direction for the Secretary of State. The power, like Section 261, would be capable of retrospective effect and therefore need not be brought into force before Second Reading of the main Abolition Bill. This will help avoid criticism that we are prejudging the decision of the House on the principle of abolition. We shall, however, need to give notice of our intentions, as explained in paragraphs 8 and 9 below.

#### Recruitment

The Group were inclined to the view that it would not be necessary to take powers also to control the recruitment of staff. But, before reaching a final view, the Group invited the Attorney General to advise them on the adequacy of the existing powers which he could use if a local authority took action which was clearly contrary to the public interest. They wished also to have the Attorney's advice on a number of points concerning the ability of an abolition authority to give valid contracts of employment in respect of a period after it was expected to be abolished.

The Attorney General confirms that his powers enable him to challenge an authority in Court, either ex-officio on his own account or in relator proceedings brought, for example, by a ratepayer, where that authority was clearly behaving unreasonably and in breach of a statutory duty or its fiduciary duty to ratepayers. The abuse concerned would need to be flagrant and his role entirely defensible before he could intervene.

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Where an authority obstructed in a way which fell short of being unlawful he would not be able to act. Nevertheless, his powers make it possible for immediate direct action to be taken in cases where flagrantly unlawful behaviour is being used as a political weapon. And cleverly-conducted opposition, staying within the boundaries of legality, would be very difficult to counter effectively in any event.

Whilst there might be scope for abolition authorities to embarrass the Government through unreasonable recruitment of staff, they could not spend significant sums of money or leave substantial burdens to their successors by this means. We have already concluded that we need not apply the EC Acquired Rights Directive. There will be no obligation to offer staff recruited by abolition authorities employment with the successor authorities. Those recruited fresh into the local authority field would not have served, by abolition, the two years required to qualify for statutory redundancy payments. Few career local government officials who would so qualify would be tempted to leave posts elsewhere to work for an abolition authority. Where there were excessive promotions or salary increases which did not amount to flagrant misconduct entitling the Attorney to intervene, these could be caught by the powers the Group have agreed should be taken along the lines of Section 261 of the Local Government Act 1972. This would ensure that we did not have to pay excessive compensation either to those who were offered new jobs or those made redundant.

The Attorney advises that we need to proceed carefully as to long-term fixed contracts of employment. It is clear that we shall need to provide the existing GLC/MCC staff who have been appointed on fixed-term contracts expiring after 1 April 1986 with the reasonable expectation that those contracts would run their full term should be compensated if they do not get jobs with the successor bodies. We can, however, announce that we shall not extend this right to compensation to staff who enter into long-term contracts after the date of the announcement.



The legislation will then not touch long-term contracts already entered into in good faith, but will catch those entered into in full knowledge of the Government's proposals. I propose to make an announcement before the Christmas Recess by means of a Parliamentary reply.

The Attorney considers that, if the 'Section 261' powers are to be available in relation to salary increases or promotions before they are brought into force, similar considerations apply. The issues here are complex and I am considering them further. I want to consider, too, whether there are other staffing issues which the announcement might usefully cover. I shall, of course, consult colleagues on this in due course.

#### Capital contracts

The Group are opposed to take any other interim powers, in particular to control capital contracts. The Chief Secretary, Treasury remains concerned that the absence of such controls might lead to successor authorities being saddled with large numbers of onerous contracts. However a clear majority of the Group believe that interim powers are unlikely to be acceptable to Parliament; could operate for only a short period (namely, the 9 months between enactment of the paving abolition Bill, probably in July 1984, and the takeover of existing abolition councils by borough/district nominees in May 1985); are unlikely to be effective in practice; and would impose a heavy burden of unproductive work on Departments.

#### Summary

The Group are agreed that the abolition paving Bill should include <sup>①</sup> a power to require councillors and officers to provide information and a <sup>②</sup> control on salary levels and promotions similar to Section 261 of the Local Government Act 1972. Despite the

Agree ①?

Agree ②



Chief Secretary's misgivings, a clear majority agrees that  
Agree<sup>(3)</sup> no power should be taken to control capital contracts let by  
abolition authorities.<sup>(4)</sup> Having considered the further advice  
of the Attorney General, the Group take the view that it will  
Agree<sup>(4)</sup> not be necessary to take powers also to control recruitment  
of staff. I propose, bearing in mind the further advice of  
the Attorney General, to announce shortly, following further  
consultation with colleagues, how the legislation will treat  
long-term contracts of employment entered into between the  
date of the announcement and abolition.

I am copying this minute to the Lord President of the Council,  
the Home Secretary, the Secretaries of State for Education  
and Science, Scotland and Wales, the Lord Privy Seal, the  
Secretaries of State for Trade and Industry and Employment,  
the Chief Secretary, Treasury, the Secretary of State for  
Transport, the Attorney General, the Minister for the Arts  
and the Minister for Local Government; and to Sir Robert Armstrong.

PJ

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30 November 1983

Local Govt:

Bukit

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30 NOV 1983

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10 DOWNING STREET

*From the Private Secretary*

5 December 1983

*Dear John,*

Abolition of GLC and MCCs

The Prime Minister has seen your Secretary of State's minute of 13 November and, subject to the views of colleagues, is content with his proposals for countering possible obstruction of the Government's policies for local government.

I am copying this letter to Janet Lewis-Jones (Lord President's Office), Hugh Taylor (Home Office), Elizabeth Hodgkinson (Department of Education and Science), John Graham (Scottish Office), Colin Jones (Welsh Office), David Heyhoe (Lord Privy Seal's Office), Callum McCarthy (Department of Trade and Industry), Barnaby Shaw (Department of Employment), John Gieve (Chief Secretary's Office), Dinah Nichols (Department of Transport), Henry Steel (Law Officers' Department), Mary Brown (Minister for the Arts' Office), Mike Bailey (Minister for Local Government's Office) and Richard Hatfield (Cabinet Office).

*Yours sincerely  
Andrew Turnbull*

ANDREW TURNBULL

John Ballard Esq  
Department of the Environment.

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