



Minister for Local Government

Prime Minister

GLC PUBLICITY CAMPAIGN

You may have seen today's account in the Standard of a statement made by Ken Livingstone at Blackpool yesterday that the GLC's Auditor is about to produce a report in which he will declare much of the GLC's recent expenditure on publicity to be unlawful. I think that colleagues might find it useful to have our initial reaction to this.

I should first explain that the Auditor's report is neither made nor even copied to this Department. The report, when produced, will belong to the GLC who will be at liberty to decide when to make its contents public. Both the Auditor and the Audit Commission are independent of the Department, and we cannot demand access to the relevant papers. It is an auditor-client relationship.

We understand, however, that the Auditor - having taken Counsel's opinion - is proposing to declare as unlawful such expenditure under Section 142 of the Local Government Act 1972 as he judges to be of a persuasive, as distinct from a neutrally informative, character. Not all the material published by the GLC as part of their "Awareness Campaign" will be deemed ultra vires, but a great deal of it is likely to fall foul of this new interpretation of the statute. The Auditor will probably be offering the GLC an opportunity to make representations before any specific item of expenditure is declared unlawful.

Rather than making such representations, however, it is much more probable that the GLC will challenge the Auditor's ruling in the Courts. It is, therefore, unlikely that the matter will be finally resolved for several months.

There are two other important points -

i. as we understand that the GLC had obtained legal advice before incurring the relevant expenditure under Section 142, there would be no question of the councillors involved being subjected to surcharge or disqualification even if the auditor's interpretation of that Section is eventually upheld;

ii. we understand that the Auditor is likely to advise the GLC that much of the expenditure he proposes to disallow would not have been challenged had the local authority used Section 137 of the Local Government Act 1972 ("the tuppenny rate") instead. We would find such a ruling a little curious but would need to examine the Auditor's interpretation - once it became available to us - with great care. However, this alternative provision will provide little comfort to the GLC since they have already fully budgeted their Section 137 resources for 1984/85 on other activities, and we have taken powers in the Paving Act to control their use of Section 137 from 1985/86.

Although, as I have indicated above, an early final outcome to this dispute cannot be expected, there is no doubt that the Auditor's report might cause other local authorities to hesitate before financing more publicity from the rates. And, of course, the questions that are being raised will be highly relevant to the work of the proposed Inquiry into Local Government Practices and Procedures.

I am copying this to Willie Whitelaw, Nigel Lawson, Leon Brittan, Keith Joseph, Norman Fowler, John Biffen, Peter Rees, Nicholas Ridley, Grey Gowrie, John Wakeham, Nicholas Edwards, George Younger, John Gummer, and to Sir Robert Armstrong.

K.A.

KENNETH BAKER

2 October 1984

CONFIDENTIAL



Prime Minister

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PS/MR BAKER

AUDITOR'S REPORT ON GLC SPENDING UNDER SECTION 142

4/2.

1. Last night's misleading account in the Standard has been convincingly corrected by this morning's press reports. Mr Baker's memorandum of 2 October 1984 to the Prime Minister requires no amendment.
2. We still lack access to the Auditor's report itself, but I understand that not only does it challenge much of the GLC's recent spending under Section 142, but it also categorically rules out the use of Section 111 for anti-abolition purposes.
3. The report, I understand, spells out that none of the expenditure under Section 142 prior to yesterday will give rise to the threat of surcharge or disqualification of councillors because they had been acting on the basis of professional advice; but the auditor also implies that such protection is not available in respect of any subsequent spending on campaign material which relies on the use of Section 142. Consequently, I gather that GLC officers have taken immediate steps to embargo any new expenditure under Section 137 until the legal position is clarified; they clearly want to preserve as much headroom as possible (within the product of the 2p rate) to enable them to meet their publicity costs under that section should the Auditor's ruling on Sections 111 and 142 be upheld.

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D C PICKUP

4 October 1984

cc PS/Secretary of State
PS/Mr Waldegrave
Mr Heiser
Mr Roscoe
Mr McCreadie
Mr McDonald
Mr Turnbull, No 10 ✓

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NBSM AT 5/10

APS/Mr Baker

DISTRICT AUDITOR'S REPORT ON THE GLC

with AT

The Secretary of State has seen your minute of 4 October. He has asked "how far can we comment? Is it "sub judice"?"

The Secretary of State would be grateful for further advice on the line to be taken. If appropriate it should include the answer to the charge of why Government did not stop it sooner.

JFB

J F BALLARD
PS/Secretary of State

5 October 1984

- cc PS/Mr Waldegrave
- Mr Heiser
- Mr Roscoe
- Mr McCreadie
- Mr McDonald
- Mr Turnbull, No 10

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Fleko

10 DOWNING STREET

From the Private Secretary

3 October 1984

This is to record that the Prime Minister has seen your Minister's minute of 2 October about the report by the GLC Auditor on the Council's publicity campaign. She was grateful for this report.

TIMOTHY FLESHER

Mike Bailey, Esq.,
Department of the Environment.

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