



10 DOWNING STREET

From the Private Secretary

14 December 1983

LIVERPOOL

The Prime Minister held a meeting today to discuss the developing situation in Liverpool. Present were your Secretary of State, the Home Secretary, the Secretaries of State for Defence, Trade and Industry, Education and Science, Social Security, the Chief Secretary and the Solicitor General. Also present were Sir Robert Armstrong and Mr. Buckley (Cabinet Office).

Your Secretary of State set out the position as in his minute to the Prime Minister of 12 December. He no longer thought that it would be wise for the Government to volunteer a statement. Nevertheless, he was likely to face questions on the Government's attitude to events in Liverpool and how it was going to respond. He sought advice from colleagues on this. He was worried that there was an air of unreality among the participants in Liverpool who had not fully appreciated the serious consequences which could flow from their actions. He was also worried that the Government could be criticised for being aware of an impending crisis in Liverpool, with serious effects on the City Council's employees, creditors and citizens, yet taking no steps to overt the crisis.

In discussion, it was noted that the Liverpool City Council had made no formal statement about its budget and rates, though there were extensive press reports that it intended to declare a budget with a very high level of expenditure and rates which were insufficient to cover it. It would be wrong, however, for the Government to presume the Council had acted illegally before it had in fact done so. It was noted that the declaration of an insufficient rate was not itself illegal; it only became so when declared so in the courts. The danger was that Liverpool City Council, looking for ^{confrontation} consultation and a statement of Government intentions could solidify rather than weaken support for the ^{majority} Labour group. The Council would like to provoke the Government into moving in so that the latter took the criticism for increasing rates and cutting services.

It was argued that the right course for the Government should be to allow mounting pressures on the Councillors and officers to take its toll. Meanwhile, the Government should confine itself to saying that the duties and powers of councils and the sanctions applying to them were set out by Parliament and that the Council should take legal advice to ensure that its actions were consistent with them.

/The meeting

The meeting then discussed the manner in which the crisis could occur. One possibility was that the Council would have sufficient money early in the year to keep it going for a few months. It was thought more likely, however, that before the Council's cash was exhausted, its officers would be reluctant to sign contracts which they did not think could be met.

and budget) Another possibility was that as soon as the Council struck its rates, suppliers and financial markets would spot the inconsistency. Supplies would be denied to the Council and serious problems could arise in the money and the bond markets where at present little distinction was made in the creditworthiness of different councils. The formal position was that the Government did not guarantee the debt of local authorities; this was secured as a first charge on rates. The difficulty was that this position might not be fully appreciated.

x Summing up, the Prime Minister said that for the moment the Government should confine itself to the statement that the duties and powers of councils and the sanctions applying to them were set out by Parliament and that the Council should take legal advice on its course of action. External pressures should be allowed to exert themselves and the Government should avoid appearing to issue threats. Meanwhile, the Department of Environment, Treasury and the Law Officers' Department should put in hand contingency work, identify the manner and timing in which a crisis might arise, considering what the Government's response might be, what the implications for financial markets might be, and whether the Government could or should vary payment of RSG, if the Council struck a rate which was, or appeared to be likely to be, declared illegal.

In view of the sensitivity of this issue, I would be grateful if this letter, and other documents on this subject, could be circulated only to those with a strict need-to-know.

I am copying this letter to the Private Secretaries of those present and to Mr. Buckley (Cabinet Office).

A. TURNBULL

John Ballard, Esq.,
Department of the Environment.

cf BU in you.



10 DOWNING STREET

MR BARCLAY

Do we require any special
briefing for this meeting?

CR.

14 December, 1983

Mrs Ryder *CR.*

I've already asked DoE
for a brief. See letter of
9 Dec below.

DMB
14/12



hlc

EM

cc: JOE
RCAFFORD

10 DOWNING STREET

From the Private Secretary

14 December, 1983

Further to our conversation on the telephone yesterday, I am writing to confirm that the Prime Minister is looking forward to seeing the Bishop of Liverpool and the Archbishop of Liverpool for a meeting here at 10 Downing Street at 0900 hrs on Wednesday, 1 February, 1984. As I mentioned, the Secretary of State for the Environment Mr. Patrick Jenkin will also be attending the meeting.

(Caroline Ryder)

The Private Secretary
to the Bishop of Liverpool



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P.01178

PRIME MINISTER

Developments in Local Government:
Liverpool.

BACKGROUND

At last Thursday's Cabinet the Secretary of State for the Environment said that he was extremely concerned about developments in the London Borough of Brent and in the Metropolitan District of Liverpool. In your summing up you said that the Government should emphasise that the situation in Liverpool was the responsibility of the local council; and that you would arrange for a small group of Ministers under your chairmanship to consider how the situation might best be handled (CC(83)36th Conclusions, Minute 5). This group is to meet tomorrow, 14th December. In preparation, the Secretary of State for the Environment has circulated his minute of 12th December. In essence it recommends relying, at least at this stage, on the existing law; and seeking to dissuade Liverpool District Council from making an illegal rate (ie one clearly inadequate to defray budgetted expenditure) by ensuring that the consequences are widely known.

See Annex A

MAIN ISSUES

2. The main issues before the meeting are as follows.

(i) What action, if any, should the Government take under existing powers?

(ii) Should it take further powers?

(iii) What public stance should it adopt?



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Mr Jenkin will not be ready at tomorrow's meeting to pursue further the wider issues relating to local government malpractices, and the collection of information about such malpractices. He will be minuting you separately about those matters in the light of the discussion at last Thursday's Cabinet, in a few days.

Action under existing powers

3. Page 3 of Mr Jenkin's minute lists a number of challenges that could be mounted. The meeting will wish to consider two main aspects.

(a) Should any of the measures which can be taken by Ministers be put in hand now? In particular, is it now open to the Secretary of State to institute an extraordinary audit, or must he wait for more formal and overt action by the Council?

(b) Are there any other powers not listed in the minute? In particular, the Attorney General has advised the Ministerial Group on the Abolition of the Greater London Council and the Metropolitan County Councils (MISC 95) that he has ex officio certain powers which can be used if a local authority takes action which is unlawful or clearly contrary to the public interest: he can apply to the Court for an appropriate order. Would existing circumstances justify the use of such powers?

4. One general consideration that the meeting will wish to bear in mind is that even if it is legally possible for Ministers to intervene it may not be tactically wise to do so at this stage. It may be better to wait for formal confirmation of the Council's apparent intentions, or to allow local ratepayers to take the initiative. Otherwise

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it might be more difficult to hold to the line that the problem is essentially local and that the central government does not intend to intervene unless it clearly has to do so because of an imminent collapse of local services.

Further powers

5. As you know, legislation is being drafted on a contingency basis to empower the Secretary of State, with the approval of Parliament, to put in Commissioners to take over a local authority which is trying to bankrupt itself or is otherwise seriously misbehaving. Ministers collectively have taken the view that such legislation should be held in reserve and introduced only if manifestly necessary. It is likely that the meeting will take the view that that point has not yet been reached. If legislation were presented, it would have to be as a free-standing Bill; and this would be a substantial and extremely controversial addition to the legislative programme. Should it become a live possibility you will wish to ensure that the Lord Privy Seal is brought into the discussions.

Public stance

6. It seems necessary to have an agreed response to the enquiries that will inevitably ensue if Liverpool District Council persist in their apparent course of action. The Secretary of State for the Environment recommends that the Government should remain relatively aloof and confine itself to pointing out the serious consequences, under the existing law, of making an illegal rate. He puts forward a draft statement on these lines, which he suggests should be made 'at an appropriate occasion in the near future'. The meeting will wish to consider:

- (a) the broad lines of the statement; and
- (b) when and how it should be made.



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The statement: content

7. The meeting is likely to endorse the general approach recommended by the Secretary of State for the Environment. But there are two aspects to which Ministers may wish to give particular attention.

8. First, is it wise to go into the details of what might happen in individual services, even for purposes of illustration? References to food for children in children's homes are undoubtedly telling; but they will equally undoubtedly be met by arguments to the effect that it is all the Government's fault for providing too little money from central funds. It might be better, at least at this stage, to confine the statement to the existing law and the formal consequences of breaking it.

9. Secondly, is it wise to refer to the possibility of legislation to empower the Government to take over the running of a council? It seems quite likely that that is just what Liverpool Council want; any suggestion that the Government might be contemplating it could encourage them.

The statement: timing

10. If a statement is to be made, it should probably be made quickly. But the meeting may wish to consider whether it should be volunteered, or made in response to enquiries from a third party. Again, considerations of how far the Government wishes to appear to be involving itself will be relevant.

HANDLING

11. You will wish to invite the Secretary of State for the Environment to update the account in his minute if necessary; to

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outline what action is open to Ministers under existing powers; and to suggest whether any action should be taken at this stage. The Solicitor General will be able to offer advice on the legal aspects. All the other Ministers present at the meeting are likely to wish to contribute either because of their departmental interest or from personal experience of the Liverpool and Merseyside area.

CONCLUSIONS

12. You will wish the meeting to reach conclusions on the following:

- (i) What action, if any, should Ministers take at this stage under existing statutory powers?
- (ii) Should the Government seek any new statutory powers?
- (iii) How should its views be presented publicly?

13. Subject to detailed conclusions on the above, you will no doubt wish to invite the Secretary of State for the Environment to keep you and the other members of the Group informed and to propose such action as may seem necessary as the situation develops.

P L GREGSON

13 December 1983



cc NO
→ cc BI
SS/ATI

PRIME MINISTER

LIVERPOOL

I briefly mentioned the developing situation in Liverpool at Thursday's Cabinet.

The current situation

So far, there have been no formal statements by Liverpool City Council about their rates and budgets for the coming year.

However, the widely publicised intention of the majority group is understood to be to increase council employment, to initiate a major municipal building programme, to reduce council rents by £2 a week, and not to increase rates to cover these additional costs. (They would calculate the rate on the basis of their own assumption about the amount of rate support grant they consider they "ought" to be receiving).

We can still only speculate whether, in the event, the majority group will hold to this decision. But they have inherited a situation in which unless they make large cuts they will in any event require a rate increase of 30-40% next year. Faced with a humiliating climb-down or a very large rate increase, it is quite conceivable that they would go ahead with the high expenditure/low rates policy in the hope that they could provoke the Government to move in, take over, and take on itself the odium of increasing rates and cutting services.

Possible scenarios

There are three possibilities:

- (a) the council sets a realistic rate and budget. This would be a difficult decision for them for the reasons



mentioned above. It is however by no means impossible if they can be brought to understand the grave consequences of the course they are proposing, that they will decide to stay within the bounds of legality and explain their position to their supporters as best they may;

(b) the council will set an unrealistically low rate, as they are proposing. This will automatically entail financial difficulties. With the ending of the supplementary rating provisions, there is no way an inadequate rate can be increased during the year. Legal challenge to the rate might result in a direction to the council to reduce their budget, but it would be unlikely that they would be able to achieve sufficient reductions at that relatively late stage to avoid running out of money.

(c) the council will fail to set a rate. In this case, they could be ordered by the court to fix a rate. They would then have to decide whether to set an adequate rate or to hold to their current proposals.

The situation is still fluid, and it is hard to predict which of the above outcomes is more likely. But with little evidence of support for the Liverpool majority group from other Labour councils and the national Labour Party, there is clearly a possibility that they could decide after all to set a legal rate.

Objectives

Following the recent discussion in MISC 95, we are beginning to prepare contingency legislation which will enable us to dismiss councillors and replace them with a Commission. Such legislation would, however, be highly controversial and difficult to enact. It may well be possible to avoid introducing it altogether. If it has to be introduced, it should be in a situation where the Government clearly has no realistic option but to do so.



Our objectives must therefore be, first, to seek to sap the confidence of the Liverpool majority group so that they do not take action which might make the appointment of commissioners inevitable; and second, if this is not practicable, so to order developments that the appointment of commissioners is seen clearly as an unavoidable response to action by the council, not as a pre-emptive movement by Government.

Proposed courses of action

There are too many uncertainties at this stage to be able to plan far ahead. We shall keep in close touch with developments, and judge an appropriate response accordingly. If necessary, there are several possible avenues of approach short of takeover that could be deployed in a graduated response. They include:

ratepayer challenge to the legality of the rate;

extraordinary audit, with the possibility of surcharge and disqualification of councillors;

specific default powers to deal with deficiencies in particular services;

requiring undertakings in return for permission to borrow (if the council, having initially embarked on a high expenditure/low rate policy decided that it could not after all tolerate the consequences).

The immediate aim must be to seek to dissuade the council from making an illegal rate next year by ensuring that the serious consequences - for themselves, for their ratepayers and for the people of Liverpool in general - are widely known



/ in the area. I enclose a note of the main points that need to be made, at an appropriate occasion in the near future. It makes it clear in particular that an illegal rate would lead to failure to pay the council's employees and a breakdown in the life of the community. The resulting mess could not easily or quickly be cleared up whatever central Government action might be taken. It also makes it clear that the difficulties with which the council would be faced arise from long-established law and practice in the local government field, and not from any action by the present Government.

We shall need to follow this up with further press briefing. There is an important case to get across, and we must ensure that it is widely understood.

I am sending copies of this letter to Willie Whitelaw, Keith Joseph, Michael Heseltine, Norman Fowler, ^{Norman Tebbit} ~~Tom King~~, Leon Brittan, and Michael Havers. I am at your disposal if you wish to discuss all this before I leave after Cabinet on Thursday.

meeting
Wednesday

PJ

P J

12 December 1983



DRAFT STATEMENT

I become increasingly concerned that the majority group on the Liverpool City Council do not seem to understand the consequences that would follow if, according to reports I have read, they were to vote for substantial additional expenditure, reduce council rents and then vote for a rate which would be inadequate to meet the resulting extra costs.

These consequences would be both practical and legal. They would flow not from any new legislation of this Government, but from rules embodied in existing local government legislation.

Every local authority is under a legal duty to levy a rate that is sufficient to meet its planned expenditure. If it does not do so, well established legal and audit procedures immediately come into operation. If the rate is unlawful and any costs are incurred as a consequence (for example if money had to be borrowed and interest paid) those costs would be chargeable to the councillors who voted for an illegal rate. Under the surcharge procedures, the councillors could have to pay back personal debts which could amount to thousands of pounds. If the financial losses were serious, they could well be liable to disqualification from office. I emphasise that all this could follow automatically, under existing legislation, from the fixing of a clearly inadequate rate.

There would be practical consequences. Councillors should ask themselves whether, after the making of an illegal rate, the Treasurer would be able to continue signing cheques. How would the wages and salaries of the staff be paid? How would the council pay its debts for instance to local firms for goods



and services supplied?

And what of the public which ~~the~~ ^{the council} council exists to serve? How will ~~they~~ pay to buy the food for children being looked after in the council's childrens' homes? How will they pay the staff to look after the elderly and the handicapped? How will they pay the bills to heat the schools and old peoples' homes?

I hope very much that the Liverpool City Councillors are taking the most careful legal advice from their officers and others qualified to advise them on the possible consequences of voting for an illegal rate.

It may be that some councillors are prepared to face up even to all this in the hope that somehow the Government will come to the rescue. I must make it as clear as I possibly can that the Government has no power to take over the running of the council. Perhaps Parliament could be persuaded to give us this power, but I would guess that the legislation (which would be highly controversial) would take some time to enact.

The consequences of the city council making an illegal rate would be very grave for the City of Liverpool and for Merseyside as a whole. The problems faced by Merseyside are already serious. I do not believe that the people of Liverpool could ever forgive a council majority which deliberately and consciously set out to bring chaos to the affairs of the city.

I hope that Liverpool City Councillors will ponder very carefully indeed what I have said.

THE COMMONWEALTH OF AUSTRALIA

12 DEC 1983

