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PRIME MINISTER

Liverpool City Council

You are holding a meeting of Ministers tomorrow 22 May to discuss the current situation in Liverpool. The Secretary of State for the Environment has sent you a minute giving his current assessment following a meeting with Liverpool Councillors on 17 May.

MAIN ISSUES

2. The main issues on which the Secretary of State for the Environment seeks decisions are as follows.

(i) Whether he can offer Liverpool modest assistance from the Urban Programme if that will either clinch a legal budget or put the Government in a better position presentationally.

(ii) The form and timing of any legal action.

(iii) Commissioner legislation.

(iv) *Education*

Urban Programme

3. It has been agreed that officials from both sides should discuss Liverpool's financial situation. There is no question of special concessions for Liverpool; and it is clear that the Council will need to modify its budget substantially if it is to avoid very large rate increases indeed. Mr Jenkin wishes to be able to offer Liverpool some modest assistance from the Urban Programme. He has about £2½ million available within this programme, and if this were used to reduce



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expenditure and therefore holdback, it could improve the Council's finances by about £7 million.

4. Ministers will particularly wish to consider the presentation and the timing of any offer.

(i) No doubt the Council will wish to be able to say that it has secured concessions from the Government. Equally, the Government will wish to demonstrate that it has not done for Liverpool what it would not be willing to do for other local authorities. The meeting may wish to ask Mr Jenkin how he would safeguard this point.

(ii) The timing will need careful judgement. If offered too soon, the money may seem like a first instalment and encourage Liverpool to ask for more; if offered too late, it may not be in time to deflect the Council from a course of illegality. How would Mr Jenkin judge this?

5. There is one other point that Ministers may wish to discuss: the timetable for the discussions. The Council has spoken of discussions over 4 to 5 weeks. Mr Jenkin said that this must be resisted. No doubt this is right in principle. Discussions over 5 weeks would take things to the end of June; the Recess would then start to loom; and there are also decisions, for example on the level of rate support grant to Liverpool, which will need to be taken during the course of June. But if the Council's officials are under instructions to draw out the discussions, it is not easy to see how they can be stopped.



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Legal Action

6. There is no suggestion that the Government should itself initiate legal action. Mr Jenkin proposes to suggest to Sir Trevor Jones that, if current discussions with the Council fail to produce satisfactory result, he should seek the Attorney General's consent to a relator action for judicial review. Ministers will wish to consider the following.

(i) Is it right for Ministers to offer Sir Trevor Jones legal advice?

(ii) Should Sir Trevor Jones be discouraged from initiating legal action while the discussions with the Council are still in progress? One can see that hasty action could frustrate the discussions. On the other hand, as pointed out above, time is running on; and a delay of some weeks, which is not impossible, could be dangerous. It might also be argued that action in the courts could increase the pressure on the Council to act responsibly.

Commissioner Legislation

7. Mr Jenkin seeks views on two points:

(i) whether he should set in hand the identification, in the strictest confidence, of possible Commissioners;

(ii) whether the Commissioner Bill should be drafted in general terms (as it is now) or apply only to Liverpool.

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8. On the first of these, presumably Mr Jenkin would intend not only to 'identify' possible candidates but also to approach them. If so, Ministers will need to judge whether the greater possibility of a leak, which this must entail, outweighs the danger of leaving things too late and not being able to appoint Commissioners without a damaging hiatus. It would be helpful to know Mr Jenkin's assessment of the earliest time at which he thinks it might be necessary to appoint commissioners. If this were, for the sake of illustration, 5 or 6 weeks away, Ministers might judge it better to wait before making any approaches; if, on the other hand, the need could arise in 3 weeks' time, the arguments for taking soundings would be a good deal stronger.

9. The arguments for drafting the Commissioner Bill in general, ^{or} specific terms are set out in paragraph 15 of Mr Jenkin's minute. The choice is essentially political. However, a Bill to Liverpool would require the suspension of the hybridity rule in both Houses of Parliament. Ministers would need to be confident that they could carry the necessary vote in the Lords as well as the Commons before committing themselves to a Bill limited to Liverpool.

10. If Ministers thought it right at least to have a Bill specific to Liverpool available, a new Bill would need to be drafted.

HANDLING AND CONCLUSIONS

11. It will probably be convenient to work through the 4 matters listed in paragraph 16 of Mr Jenkin's minute, namely:



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- (a) the provision of additional assistance from the Urban Programme;
- (b) Legal action;
- (c) identification of Commissioners;
- (d) the nature of the Commissioner Bill.

On each item, the Secretary of State for the Environment might be invited to open the discussion. All your colleagues are likely to wish to contribute; but the Chancellor of the Exchequer or the Chief Secretary, Treasury may have particular comments on the proposal to provide assistance from the Urban Programme; the Attorney General will wish to comment on the issues involved in the timing and nature of any legal action; and the Lord Privy Seal will wish to comment on the nature of the Commissioner Bill, and whether drafting resources can be made available for the preparation of an alternative Bill limited to Liverpool.

h.s.B.

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Cabinet Office.

21 May, 1984