



PRIME MINISTER

LIVERPOOL CITY COUNCIL

1. We are due to meet again tomorrow to discuss the latest position on Liverpool.

Latest Developments

2. On Thursday, 17 May, I held my third meeting with the Labour leadership on the Council. The meeting had been requested by Dr Cunningham who led the deputation and was accompanied by Jack Straw. National representatives of four Trades Unions who represent local government employees were also present. A full account of the meeting is at Annex A together with a copy of the statement I made afterwards.

3. The tone of the meeting was markedly different from previous meetings. Dr Cunningham himself has been urging a valid budget on the Council; and the Unions have also been increasingly concerned about the consequences of an inadequate rate. There may also be grounds for believing that there is still not a majority on the Council for an unlawful budget, and the Council leaders may suspect this too. (They did not attempt to move such a vote on May 15.) In any event, there was much more evidence that the Councillors were willing to explore options open to them to set a valid rate. I do not want to be too optimistic however. While I believe that some of the Labour Group may be genuinely willing to find a solution, others may not and may well be using the more conciliatory approach as a tactic to avoid being blamed if talks break down. If a valid rate is to be made at an acceptable level, it will require a substantial change of policy by the Labour Group.

4. During the meeting Councillors inevitably put most emphasis

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on proposals which the Government should consider to ease their financial position. They referred to Rate Support Grant (RSG), targets and penalties, additional housing capital allocations, additional urban programme allocations, and put much less emphasis on the specific proposals that they would make to reduce their proposed expenditure. I purposely did not discuss figures in any detail but I believe they have concluded that their original budget proposal to spend £261m, which allowed for considerable growth, is simply not on.

5. For my part I stressed the very limited scope the Government had to help the Council even if it were willing to do so. The RSG settlement and the allocation of housing monies were fixed for this year, and all other local authorities had made their budgetary and rate decisions in the light of capital allocations already announced. I indicated that anything we could do - possibly through the urban programme - could only have the most marginal impact on their budget for this year. I emphasised that my visit to Liverpool on 7 June was to consider local housing conditions and would help to inform my decisions on future housing capital allocations.

6. Against the background that the Council leadership now appears to be more willing to move I felt it right to agree that my officials and their's should discuss, urgently, possible ways to settle a balanced budget. I stressed that time was short and that Liverpool's credit could not hold out much longer. My officials have already had a preliminary discussion with the Council's Chief Executive, and Treasurer. The first step is to produce factual notes of the options as soon as possible as a basis for a possible further meeting with the Council leadership. Councillor Byrne (the leading hard-liner) spoke of discussions over 4 to 5 weeks. We cannot accept this. I insisted on a report by officials as soon as possible - I hope that this will be available by Tuesday, 29 May, but I think that the Council may try to drag out the discussions. We must resist this.



Next Steps

7. The Council will have to reduce their expenditure proposals from about £261m to substantially below even a "stand-still" budget of about £234m to achieve a rate increase which they - and the minority parties - are likely to consider tolerable. Given that there is very little room for manoeuvre on the Government side, by far the greater movement is required by Liverpool.

8. The Government would stand to gain if a legal rate were fixed by the Council on the basis of a budget which involved the Labour Majority giving up its manifesto commitments to growth and beginning a process of retrenchment. In these circumstances, I think it would be right for us to offer a very small amount of help. If we did so, I think it would be possible to demonstrate publicly that this in no way represents a concession by Government on the central issue: it would be Liverpool, not the Government, who have substantially changed their stance. Through the urban programme we could provide some modest assistance. £2½m is yet to be allocated (I did not of course mention this sum) and we haven't yet finished settling the details of Liverpool's inner city partnership programme for 1984/85. If we were prepared to apply this £2½m to Liverpool we would not need to reduce any other local authority's urban programme allocation and it could be justified in the light of the City's genuine inner city problems. To have the maximum effect on the City's budget we would need to apply the urban programme funds to expenditure now within their existing main programmes. This would not be consistent with our general stance that urban programme projects must be additional to, and not in substitution for, local authority activity. But on this basis, and taking account of the effect of disregards on increases in the urban programme expenditure (already agreed as part of the RSG settlement), and reduced holdback, such an application of urban programme support would reduce the Council's



rate-borne expenditure by about £7m.

9. The Council may consider that this is not enough; but if they reject it, we would be in a better position in relation to the public debate which would then take place.

10. I should be grateful for the agreement of colleagues to be able to continue the discussions with the Council on the basis that I may make this offer at the right time.

Creditworthiness

11. Annex B sets out the latest position in the credit market for Liverpool and other local authorities.

Legal and Audit Action

12. Annex C sets out the immediate options for legal action against Liverpool and notes the approach likely to be taken by the City Council's auditors. I would welcome your and colleagues' views on the proposal to suggest to Sir Trevor Jones that, if current discussions with the City Council fail to produce satisfactory results, he seeks the Attorney General's agreement to act as relator in an action by a local liberal for judicial review of the Council's failure to rate.

Commissioners

13. Since we cannot be sanguine that the present discussions with Liverpool will lead to a satisfactory settlement, I believe we should maintain a dual-track approach and prepare for possible breakdown of services and the need to appoint Commissioners. My officials are continuing with the basic preparatory work but there are two issues on which I would be grateful for your views.



14. First, in our discussion on Thursday, 3 May we agreed that no further consideration should be given to possible candidates as Commissioners for the time being. I am concerned that we could find ourselves at the last minute insufficiently prepared. This would obviously be very damaging and I should therefore like your agreement to set in hand the identification, in the strictest confidence, of possible Commissioners.

This discussion was not shared with colleagues.

15. Second, we shall also need to consider urgently the format of the Commissioners' Bill. As presently drafted, the Bill would apply to all principal Councils in England and Wales. There is the alternative proposal that the Bill should apply only to Liverpool. It would therefore undoubtedly be hybrid. We face a difficult political choice. While a general Bill would be more strongly opposed by the Opposition and by our own supporters concerned about its possible use by future Governments, it would: (a) ensure that there were powers available to deal with any future councils who behave like Liverpool; (b) involve only a single debate on the issues of principle; and (c) require only one exercise of passing emergency legislation. No authority could be put into Commission without further debate in Parliament on an Affirmative Resolution Order. A Bill dealing solely with Liverpool would reduce Parliamentary opposition but would require not only an emergency timetable but also the suspension of the hybridity rule in both Houses. The issues of principle involved would be rehearsed on any occasion that a similar Bill became necessary, and no doubt emergency procedures would again be required. My own preference remains for a general Bill but colleagues may feel that it would be prudent to have a Liverpool only Bill on the stocks. If so, I should need to ask my officials to instruct Counsel urgently to draft what would in effect be a new Bill.

Summary

16. To summarise I would be grateful for your views on:

- a. the provision of an additional £2½m in urban programme grant to Liverpool if discussions with the City Council

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appear to make this necessary and desirable towards achieving a balanced budget (paragraphs 8 - 10);

b. the timing and nature of legal action against the Council (paragraph 12 and Annex C);

c. the need to set in hand identification of possible Commissioner candidates (paragraph 14);

d. whether the Commissioner Bill should apply generally or to Liverpool alone (paragraph 15).

17. I am sending copies of this minute to Leon Brittan, Nigel Lawson, Keith Joseph, Michael Heseltine, Norman Fowler, Norman Tebbit, Peter Rees, Michael Havers, John Biffen, Sir Robert Armstrong and Mr Buckley (Cabinet Office).

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21 May 1984

NOTE OF LIVERPOOL MEETING WITH CITY COUNCILLORS, TRADE UNIONISTS
AND LABOUR MPs HELD ON THURSDAY 17 MAY

Dr Cunningham

Thank you for seeing us. I know that everyone here, from the Trade Unions, the Labour Party and the Council welcome the opportunity to talk about Liverpool's problems and try to negotiate a solution to those problems. This is the purpose of our coming, to resolve the problems. I don't think we need to go into detail over the problems. Cllr Hamilton would like to explain the Labour group's position

Cllr Hamilton

I want to introduce some points arising from the election. There has been much local comment about wanting a common agreement to settle the difficulties. We welcome the opportunity to do so not from the point of view of attempting to get into confrontation and illegality but to see if there is a way of getting around the problems from a common point of view. We want to explore possibilities of assistance from your side that would avoid the difficulty of an illegal budget. We would be happy to listen to them and respond to them as well. These are points you can put. We have our own ideas as well on how we can assist.

Secretary of State

I think there is a wish to find a way round without illegality and confrontation. That is what we all want. I want to know how far the Council has got in their thinking. On two occasions when there has been an opportunity to set a rate you have deliberately proposed to spend high and rate low. The gap was very large. The only way forward, for progress to be made was

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for the Council to seek a budget which can be matched by a rate increase that you are prepared to put before the Council.

Councillor Hamilton

We are concerned to protect jobs. We've just seen what happened to the Cammell Laird ship yard, Liverpool people were involved, we do not want to go further down this road if we can possibly avoid it. We want to avoid this situation and keep services without massive rate increases which are a burden. In responding we need to know whether there is any flexibility in your position as a Minister that you can offer. We know the constraints of RSG, but we need to know where other flexibilities there are to see if our targets and aims can be kept in measurable proportions. Councillor Byrne would like to go over some points.

Secretary of State

You are concentrating on what we can do. I am glad that you recognise our constraints on RSG - and this is an important point. Not only on RSG. In the last few weeks there have been forceful approaches from other authorities with problems who would be shocked at our handing out large sums to Liverpool. We have to have regard to this. What is the ball game as far as your Council is concerned?

Councillor Byrne

This is the 4th occasion on which we have had meetings. On each occasion we both stated our positions but there it ends. You've said and we've said things that were no doubt unacceptable to each other. Since then there have been elections results in which our respective views have been tested. We want to arrive at an agreement today on the parameters on the areas upon which a discussion can take place between the two sets of officers to meet and explore possibilities. To see if any distance between us remains. This is the best way - your people like Mr Heiser here talking to our people.

The enormity of our problem has long been recognised. I don't want to repeat history but in terms of our budget and target we were confronted with a £100 million problem. Look at the

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Liberals local council and Tory national Government. I don't want to apportion blame but we did have a big problem to start with. Look at the background, 60,000 unemployed, 90% of our young people are unemployed, 40,000 public sector and 5,000 council jobs have gone since 1979. We have bad housing conditions some of the worst in Europe, and inherited enormous cash problems.

There are outline areas where we can talk without us placing demands on you tampering with rules and legislation. I want to outline a number of points which are the main areas for a useful dialogue.

One, RSG, not in terms of legal changes but concerning the assessment of targets and following on from that; two, the penalties Liverpool has as a consequence. Three, disregards. There is considerable room for fruitful discussion and negotiation here. Our two sets of officers could discuss this together. Four, Partnership. There is a possibility of flexibility in terms of what is included and things which have been taken out of partnership. Five, HIP and general capital allocations. Mainly on HIP there is a large scale for discussions. We were very aggrieved with Liverpool's HIP and partnership allocations following our first meeting when we set out our programme and needs. Six, capital write off. We have had to demolish parts of housing stock which were undesirable. The capital debt could be written off.

Seven, the position of the County Council. We had a £120 million loss in RSG. The Government said that we were counting money that had gone to the County. About this £120 million we can demonstrate with actual figures what has gone to the County and that the £120 million does not include that. I want to talk about this £120 million. What's the difference whether its £106m, £109m, £116m or calling it £120m. We think we can show that in terms of RSG Liverpool has been treated unjustly. The £28 million taken from Liverpool rate grant distribution was unfair. Officers could make an analysis to winkle out peculiarities to Liverpool. Additional grant - if we had this some penalties would not have added up to £26 million, peculiar

to Liverpool. We are keen to identify which parts are fair or not. Look at the County Council, you said you believed that £120 million which we were counting in 1979/80 and 1980/81 counted in the County Council's share of grant. We can demonstrate that £36 million which you said was part of the £120 million isn't. £120 million has been taken account of and you can recognise that.

When we first met there were statements that Liverpool could not operate below £245 million.

Secretary of State

That was not my view.

Councillor Byrne

Then you said we imagined it. My figures can be proved mathematically. Estimated targets for 1984/85 use the same cash basis as for 81/82. Relate that spending to Liverpool and using the figure of total expenditure on RSG for 81/82 for 84/85 you would find that you can mathematically prove a £20.5 for 1984/85 c.f. £16.75 for 1981/82 using the same criteria: a 122% index movement. If Liverpool uses these criteria that would have produced a £248.6 million notional target for 84/85. This is the mathematical situation. Equally take budget spend in 74/75 in cash terms compared to notified targets for 1984/85. Compare the total movement used, compare this with Manchester as a reasonable comparison, the met districts generally and the met authorities. Compare the Liverpool budget. Comparison with the movement for Manchester gives 245 for Liverpool for 1984/85. £243.7m compared to the Metropolitan Districts and £244.2m for the met authorities. I have not invented these figures. Targets, penalties and RSG demonstrate that with good will officers can discuss the situation without you saying that we interfere with legislation. On HIP, it was £47 in 80/81 which is equivalent in cash terms is £61.2m in 84/85. /Actual/ HIP is worth £38.5m, 2 million allows no tolerance: a shortfall

of £23m. My points have given a brief explanation of what we mean. You would have to be inflexible to say there was no room for manoeuvre and dialogue.

Secretary of State

You have raised a number of points. I cannot comment on the complexity of the figures but I get the general idea. In response to your points I must say there may be a misunderstanding about the element of flexibility in these matters, not just with regard to legislation; it is the whole system. RSG and the way it is devised and operates leaves us no flexibility. It is important the Council understands this. Last December the RSG and targets for 431 local authorities throughout the country were set. Under RSG, and the Treasury rules, that cash is limited. If you give extra to one authority someone else loses out. There is no way in which you can change the rules half way through. We cannot change RSG and withdraw Liverpool's target and set a different one or change penalties. If you are suggesting that we can withdraw Liverpool's target or change penalties for Liverpool, this is not on. It would involve withdrawing the whole settlement. Parliament has always insisted that RSG must be on general principles applied to all authorities generally. We cannot set individual targets or disregards. If a disregard is issued it must apply for everyone as it does for the police in the miners' strike. Your first three points suggest changes in RSG, penalties and disregards for this year. I don't see any room here. It is now May; every other authority has budgetted and rated on the basis of published settlements. If we were to revise the whole thing, there would be local government uproar across the country. That is an avenue it does not seem to me that we can explore. It is not just a question of legislation but of the whole system.

Dr Cunningham

What about the way the situation is looked at by Supplementary

Reports - they change things. I don't accept that there is no room for manoeuvre here. Changes are made.

Secretary of State

The main change is from the original budgets to the estimated outturn and their final outturn, and the implementation of holdback; but the basic rules don't change. One element that is open is the question of disregards. However, they still have to apply to everyone, I don't have the power to do otherwise. They cannot be for specific authorities. I considered last year's disregards and they have to apply to everyone. I come now to your point on comparable met districts and authorities, Manchester's RSG and target and the point that the system has put Liverpool at a disadvantage. There is a good mechanism to look at changes in RSG calculations. The Grants Working Group with the local Authority Associations looks at year by year components. The purpose of GREs is to seek to get objective tests which give a fair distribution to all local authorities. Many authorities say the system works to their disadvantage. My officials work with the local authority associations to look at this. Liverpool officials could have a detailed look at GRE mechanisms to see if Liverpool is disadvantaged but there is no possibility of this being done for 1984/85, the die is cast.

Councillor Hatton

One thing we have said is that today we are concerned about exploring possible areas for discussion because we are so concerned about the situation. We deferred the misquoted "illegal budget" because you were coming on the 7th on the basis of discussions taking place. If you just reply as you have done there will be no room for officials to discuss. It would be wrong to get in this position.

Secretary of State

I am assuming I hope rightly that your presence here today

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represents a recognition that the earlier budget was a dead end, with the city running out of cash but no money for wages. That cannot be to your group's advantage or its staff and services. I know you are anxious to protect services etc and because of your obvious willingness to talk we are prepared to talk but I have to point out the limitations. It must be on the basis of a legal budget.

Cllr Byrne

We are here because you asked us.

Secretary of State

While I am very willing to talk, it was Dr Cunningham who requested the meeting

Cllr Byrne

We don't want you to feel compelled to make your position so forcefully that there is no room for manoeuvre. We will not concede we were wrong, we want to create the atmosphere for a useful discussion. You are not helping this situation for useful dialogue.

Cllr Mulhearn

When you indicated you were visiting Liverpool on the 7th we thought this would be a marvellous opportunity for you to see the problems at first hand so we deferred making a budget because of the meeting. We have told the press and media that we are reasonable and will negotiate. But our position in Liverpool is so horrendous, concessions from you are essential You should approach this in a negotiating manner. If the political will is there you can take us from this appalling situation. There is no possibility of us voting for redundancies or cuts in social services. We are already being illegal by

not providing basic statutory services. Do you want us to worsen this situation?

Dr Cunningham

If there is an agreement in principle that at last some discussions can be set in train then the position of the Labour Group is that they will not force through an illegal budget.

Secretary of State

I repeat, I hope I am right in saying that your presence indicates a willingness to embrace a legal budget. I must say, it looks as if all the flexibility is going to be on my side. I do not have the room for this flexibility. Eric Heffer understood this. We cannot re-write the RSG settlement. There are ways of looking at RSG but not for 1984/85. Looking at the other points, the figures you talked about in your original budget proposals between those and the rate increase there would be an enormous gap. We need to know what sort of rate increase you had in mind. It would be quite wrong to arouse hopes that cannot be fulfilled.

Councillor Byrne

Are you looking for a failure to agree?

Secretary of State

Most certainly not.

Councillor Byrne

You can't be expected to give details, but we are saying we should both give officers our blessing to look at figures and see if there is room for manoeuvre. After looking at the whole package they can then produce an analysis of the situation. Possibly after the 7th we could reconvene, after this dialogue has taken place. We could have been difficult but we weren't, we genuinely want to reach an agreement.

Secretary of State

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We have both looked over the brink at what could happen. It is a horrid prospect for the City and the Government. I am prepared to accept that you want to find a way to compromise.

Dr Cunningham

We accept that if you are flexible on these issues we would have to be flexible on our side.

Councillor Hamilton

Our willingness is shown because we stood back on Tuesday and said we wanted to look positively at the situation. I have been criticised by both sides; that we should have continued with an illegal budget. With a positive attitude and a spirit of co-operation I think we can reach a solution.

Secretary of State

I recognise that you have not come in here waving a piece of paper saying 'peace in our time'. We are talking now about 1984/85 but 1985/86 and 1986/87 will come. We can look at Liverpool's disadvantages in the long term but we haven't much time now. There is no rate income at the moment, this will cause problems sooner or later, we must get a move on we cannot put this on ice until 7 June. On 7 June I want to talk to Cllr Stewart about HIP and the Priority Estates. Many projects, some on Merseyside, can have a dramatic impact on the quality of life. But I was concerned to point out in the House that the 7 June visit was not about this year's budget. Some of the things you've mentioned we can look at in the future. About closing the gap of a £245 million budget and funding a rate higher than 9% we may set officers an impossible task. We need to know what ball game we are in. Urban programme and

HIP allocations have been made. Anything extra for one authority who hasn't made a rate must come from other authorities who have. As regards housing the Partnership Programme, without withdrawing from other authorities it would be difficult for me. I would have to go to Manchester and Sheffield and say "I must take your money away and give it to Liverpool."

Councillor Stewart

We are first on the list with problems, come and see for yourself on the 7th. If you are sincere.....

Secretary of State

There is no question in my mind about that, Ian Gow has seen the housing problems but we are concerned today with the budget for 1984/85.

Dr Cunningham

If it was possible to find a special RSG methodology for Birmingham then why is it not possible for Liverpool?

Secretary of State

It wasn't just Birmingham.

Mr Heiser

There were principles applicable to other authorities.

Dr Cunningham

Anyone who has looked at the problems of Liverpool are unique. It is not impossible to find methodology for these special problems. Money is being taken from Cumbria for Merseyside which doesn't please me. What about the contingency reserve if it comes to the crunch?

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Secretary of State

It would be possible for our officers to sit and talk together. As the budget comes down there is the RSG multiplier effect. As spending is cut, RSG soars up and the rate increase reduces. We must work on this.

Cllr Byrne

That is perverse.

Mr Straw

We know how the mechanism operates. £216m, Liverpool's target, requires the authority making thousands of people redundant. Whatever differences there are in no circumstances does the Parliamentary Labour Party believe jobs and services should be lowered below existing levels. The economic and social factors of Liverpool are different. I know the principles which Mr Heiser has described. In the real world you can devise rules for one authority, as was done with the GLC and targets.

Secretary of State

That's not quite right - there was at least one other authority.

Dr Cunningham

It was a good try though!

Mr Straw

Knowing the intellectual skill you have available I cannot believe that allowing for proper protective fences, you could not arrange something. We understand your position as I hope you understand ours. You have spoken about next year. Can't we look at that? If the Council know they will be in receipt

of additional resources next year they might carry over a deficit from this year's budget.

Secretary of State

That suggestion could be valuable but the immediate problem is this year. I am not saying that under no circumstances is there flexibility. I want to state clearly that when I ask officials to look it could only be at the margin, but with the multiplier effect this could lead to a substantial change in the rating position. I would need to be certain this would lead to a lawful budget and rate.

Cllr Hamilton

We started off looking for a lawful budget. We need goodwill on both sides if decisions are to lead to a budget that will balance.

Secretary of State

It is important that you realise that because the RSG settlement has been made and approved the room for manoeuvre on the main parameters is nil. Timing on disregards I must leave open until the final report. We added an extra one this year. On Partnership there is some room but it is at the margin. Don't go out with the belief that we can close the gap between a spend of £245 million and a 25% rate increase.

Cllr Hatton

We don't want to think the door is closed. We must agree these points can be looked at. Both sides must agree a spirit of looking for a way out. Doors must not be closed. We very much welcome the changed tone of this meeting.

Secretary of State

No one would fail to recognise the different tone of this meeting. But I don't want anyone to have a false view of what is open to us. Any solution must be at the margin while being a worthwhile contribution to the City's problem. We must talk about timing. I want to feel we can report well before I go on the 7th. Terry Heiser says one week.

Cllr Hatton

We don't want to talk about specific dates. Our officers are available and can report back.

Secretary of State

I must report back too. Anything that would involve me in withdrawing money from other authorities is not acceptable.

Cllr Hatton

The tone of our public voice is important, comments to the press have to be tempered.

Secretary of State

That's quite right, I don't want to make life difficult for you. I will make it clear to the press though that I won't involve other authorities.

Cllr Mills

We would need an assurance that options will be looked at.

Secretary of State

I can give you that assurance.

Cllr Mills

We are accountable to the people who have just reiterated their support for us.

Secretary of State

I can accept that.

Cllr Hatton

We can say to press that officers are meeting to see what is possible. We need say no more.

Secretary of State

The less we say about numbers the better.

Dr Cunningham

So, the conclusion is there will be discussions between officers about the possibility of resolving the problems on the basis of a balanced budget using Derek's phrase.

Secretary of State

On details, I will say this is not the moment to discuss details. The spirit of the meeting has been a general wish to make a balanced budget in everyone's best interests because time is short. There is no need at this stage to fix another meeting.

Dr Cunningham

This has been a useful and constructive meeting.

Patrick Jenkin, Secretary of State for the Environment, today met a deputation of Liverpool City Councillors, trade unionists and Members of Parliament, led by Dr Jack Cunningham MP.

Following the meeting Mr Jenkin said:

I welcome the willingness which the City Council has today shown to move towards making a properly balanced budget and rate. We all recognised the appalling consequences that would flow for the people of Liverpool and Council staff if this wasn't achieved.

The Councillors made a number of suggestions as to how such a balanced budget should be approached. Naturally they looked to me for help towards this, but equally I made it clear that I am in no position to vary the rate support grant settlement and that I am constrained by the national rules governing other grants. I also have a duty to safeguard the interests of all other authorities, some with equally pressing problems.

This makes it difficult and I have made this point very clear that anything the Government might do could have no more than a marginal impact on the Council's rate and budget for this year. Nevertheless we agreed that our officials should, as a matter of urgency, discuss with officers of the Council and report back swiftly on the possibilities of resolving the City's problem on the basis of a balanced budget.

CREDITWORTHINESS

1. The Council are continuing to meet their liability for loan charges and other payments at the due times. It would clearly be embarrassing if a credit crisis arose before the completion of the official level discussions, but this seems unlikely.
2. So long as nothing occurs to change the legal advice they are getting from the Treasury Solicitor, the Public Works Loan Commissioners are likely to continue to agree the tranches of new borrowing for which Liverpool are applying. They lent £17m on 15 May as discussed at the last meeting of the Ministerial Group and have already agreed to lend a further £18m on 23 May (when Liverpool have to make a payment to the Bank of England to redeem revenue bills). Liverpool are expected to ask for further tranches of £20m on 1 June and £12m on 7 June. With discussion under way, it seems wrong at this stage to seek to dissuade the PWLB from lending, but this needs to be kept under continuous review.
3. Knowsley Borough Council have been given, with the assent of the Treasury, borrowing approval to refinance at lower interest rates, for the benefit of their revenue budget, £40m of debt currently administered by Liverpool City Council in respect of transferred housing. This does not involve any special treatment for Liverpool, but it does help their cash flow.
4. It now looks as if Liverpool will remain solvent into June. Meanwhile, the Bank of England report that the market is nervous but that no local authority other than Liverpool is yet having any difficulty in borrowing.

LEGAL AND AUDIT ACTION

Legal Action

1. The outcome of the 17 May meeting with Liverpool Councillors implies that while there is need now to review the scope for legal action, the timing of such action should be considered against the possibility that Liverpool may make a valid rate.
2. Ministers discussed on 8 May possible legal action being initiated by Sir Trevor Jones. He has considered mounting a case on the grounds that the majority group on the Council are in breach of their fiduciary duty. It is unlikely that such an action would succeed because at present the proposals of the Council do not involve imposing a disproportionate burden on ratepayers.
3. A more fruitful course might be to consider applying by way of judicial review for an Order of Mandamus on the grounds that Liverpool have failed in their statutory duty to make a rate under section 2 of the General Rate Act 1967. The Act does not require a local authority to make a rate by the beginning of the financial year but the court may hold that a delay of, say, two months is unreasonable.
4. There is some doubt whether a ratepayer is a person with sufficient interest. For an action to be brought by such a person it would be prudent to obtain the Attorney General's consent. A Councillor, however, would probably be regarded as a person with sufficient interest and would therefore be able to proceed without such consent. Any legal action which does not involve the Attorney General either proceeding ex officio (in his own right) or ex relatione (at the relation of a ratepayer) could not be influenced in any way on, for example, timing.
5. The best course appears to be to propose to Sir Trevor Jones that the Attorney General would consider granting consent to relator proceedings for judicial review and that an application for such consent should be made. Legal Aid is

not available for relator proceedings. If the Attorney General were to act himself (ie without a relator he would have more control over the timing of the action and there would be no question of relying on a ratepayer who was concerned about the costs. However there is a lot to be said for keeping the Government (as it would appear to be) out of the legal areas as long as possible.

6. Tactically it would be preferable if no action at all was initiated until the present round of discussions with Liverpool has been concluded.

Audit Action

7. The Auditor has an independent role and specific statutory powers under the Local Government Finance Act 1982. He has already warned Councillors of their obligations to make a rate and of his powers under section 20 of the Act - that where it appears to him that a loss has been incurred or deficiency caused by the wilful misconduct of a person (eg Councillor) he shall certify the amount of the loss due from those responsible. if the loss exceeds £2,000, certification of such loss will result in a disqualification of Councillors from office.

8. The Auditor is about to write a further warning letter to the Council about their obligations and about his powers. He is aware of the discussions now in hand with Liverpool. It is inevitable that this letter will rapidly become public knowledge. This could usefully add to the pressure as the Labour Majority Group to draw back from an illegal rate, not least because it would make them realise that they could already be in danger of disqualification. On the other hand, if they come to believe that disqualification is inevitable they may lose the incentive to make a valid rate.

21 MAY 1984





Liverpool

10 DOWNING STREET

From the Private Secretary

Prime Minute ②

Guided by Dr Cunningham, the
Liverpool Council may be edging
towards a legal balanced budget.
The tone of this meeting was better
than earlier ones

AT

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Patrick Jenkin, Secretary of State for the Environment, today met a deputation of Liverpool City Councillors, trade unionists and Members of Parliament, led by Dr Jack Cunningham MP.

Following the meeting Mr Jenkin said:

I welcome the willingness which the City Council has today shown to move towards making a properly balanced budget and rate. We all recognised the appalling consequences that would flow for the people of Liverpool and Council staff if this wasn't achieved.

The Councillors made a number of suggestions as to how such a balanced budget should be approached. Naturally they looked to me for help towards this, but equally I made it clear that I am in no position to vary the rate support grant settlement and that I am constrained by the national rules governing other grants. I also have a duty to safeguard the interests of all other authorities, some with equally pressing problems.

This makes it difficult and I have made this point very clear that anything the Government might do could have no more than a marginal impact on the Council's rate and budget for this year. Nevertheless we agreed that our officials should, as a matter of urgency, discuss with officers of the Council and report back swiftly on the possibilities of resolving the City's problem on the basis of a balanced budget.
