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PRIME MINISTER

OPTING OUT OF ILEA: FINANCIAL ARRANGEMENTS

[Minute of 28 July from Mr Baker]

DECISIONS

Mr Baker seeks agreement to the general structure of the financial arrangements for boroughs which opt out of the ILEA. The main issues you need to decide are -

- a. whether financial arrangements need to be made to allow opting out in the course of the financial year 1989/90, or whether you are content to defer any opting until 1 April 1990;
- b. whether community charge capping should apply to boroughs which are high spenders because of the expenditure they inherit from the ILEA.

Mr Baker wishes to incorporate proposals on these issues in a general consultation paper on opting out, to be published during August, which would also cover his proposals on assets and staffing.

BACKGROUND

2. E(LF) considered Mr Baker's proposals on the procedure for boroughs to opt out of the ILEA on 2 July (E(LF)(87)11th Meeting, Item 1). He proposed then that the earliest date for opting out should be 1 April 1990. This was because both the boroughs and the Government faced a great deal of work before the policy could take effect; the legislation was unlikely to be in place before July 1988; the boroughs would then need to make applications to him; and after a period for objections, there would need to be Orders which would be subject to the affirmative resolution procedure. All this made opting out by 1 April 1989 impossible. The next

feasible date was the start of the next financial year, 1 April 1990. E(LF) accepted this.

MR BAKER'S PROPOSALS

3. Mr Baker now reports the strong preference of the leaders of Kensington and Chelsea, Wandsworth and Westminster councils for an earlier transfer. They accept that 1 April 1989 is not feasible. But they suggest a transfer on 1 September 1989, the start of the academic year, but in the middle of a financial year. The main advantage they see in this is an opportunity to get to grips with spending on the new service before the May 1990 local elections.

4. Mr Baker's paper therefore explores the implications of transfer on 1 September 1989. The main points are -

a. it would not be possible to take such transfers into account in the RSG settlement for 1989/90 (firm decisions would be needed in September 1988 to do that);

b. special financial arrangements would therefore be needed to require ILEA to pay over to the opting boroughs the cost of running their education service from September 1989 to March 1990. The only recent precedent for this is the transfer of London Transport to central Government in mid-year. Those arrangements led to a successful challenge by the GLC, and an emergency Bill;

c. even if the financial problems could be solved, Mr Baker believes that the timetable would still be unreasonably tight. Furthermore, he does not believe that the boroughs would in fact reap much benefit from taking over education in mid-1989: they might simply take on ILEA overspending without the full resources to meet it.

5. For these reasons Mr Baker recommends E(EP) to confirm the earlier decision to allow opting out by 1 April 1990 at the earliest.

6. The financial arrangements for opting out boroughs from 1 April 1990 will be more straightforward. The main features will be -

- a. ILEA will cease to precept on an opted out borough. Instead, the borough will issue a community charge for its new service;
- b. the needs assessment for education in its area will transfer from ILEA to the borough. But since grant will be paid at taxpayer level (e.g. in practice to the borough), this will have little practical effect.

Community Charge capping

7. Mr Baker believes that, for technical reasons, the three boroughs most likely to opt out will benefit to some extent even if they maintain ILEA's high service levels. If they reduce spending, either by taking on fewer central staff under his staffing proposals, or by making savings on schools, adult education etc., then they should be able to reduce community charges further.

8. Nevertheless, boroughs which take on ILEA's high spending levels could be pushed into the target area for community charge capping in 1990/91 and subsequent years. Mr Baker considers three possible ways to deal with this -

(a.) to allow selection to operate, but to show flexibility in setting caps for opting boroughs;

(b.) to apply capping automatically to opting boroughs for, say, three years, in the same way as for joint boards after abolition of the GLC and MCCs;

(c.) to exempt opting out boroughs from capping for three years, unless they had a record of overspending on their other services.

Mr Baker recommends (c) - exempting responsible opting boroughs from capping for three years.

MAIN ISSUES

Opting on 1 September 1989

9. The three boroughs which are likely to opt out all want an early start. If they take over education on 1 September, they will stand more chance of getting spending down for the financial year 1990/91, and that will affect the community charge they need to set immediately before the borough elections. It could also help with transition to the community charge. On the other hand, Mr Baker must be right to say that the financial arrangements to achieve a mid-year transfer will be complex and fraught with difficulties. They are almost certain to be challenged by the ILEA. It is also likely that they will give the boroughs less money than ILEA is actually spending (because they will have to be based on the EL for 1989/90, not ILEA's budget), and cause them financial problems. This could force the boroughs into higher charges in 1989-90 and so be to their political disadvantage. On balance, you will probably want to agree that it is undesirable to allow opting out before 1 April 1990.

General financial arrangements from 1990/91

10. The basic financial arrangements for dealing with opting out under the new local government finance system are fairly straightforward. But there are a number of important subsidiary issues which are not even mentioned in the paper. They include -

- a. the link with arrangements for transition to the community charge. Is the effect of opting out to be included in the transitional safety net or not? Are there to be special transitional arrangements for opting out?
- b. how will Mr Baker react to the inevitable appeals from both the boroughs and the ILEA for assistance with costs

arising from transfer - e.g. the costs of replacing the use of facilities across borough boundaries?

c. what is the link with Mr Baker's staffing proposals? The boroughs may escape some costs if they can choose what central staff to recruit. But they and the ILEA may also face redundancy costs unless you agree that the Exchequer should give assistance.

All these issues will be raised by both supporters and critics of the policy. You will want assurances that they are being addressed.

Community charge capping

11. The opting boroughs will deeply resent any proposal which leads to their community charges being capped as a result of opting out of ILEA. Automatic selection was applied to the new joint boards created when the GLC and MCCs were abolished. But it was not applied to the boroughs who also took over GLC services. That argues for exempting them. On the other hand, you will probably not want to exempt boroughs whose existing spending puts them into capping. So you will probably want to agree to Mr Baker's aim of exempting opting boroughs unless their existing spending is excessive. But it will not be easy to achieve this in a legally watertight way. You will want to ask him to prepare detailed proposals in consultation with the Environment Secretary.

VIEWS OF OTHER MINISTERS

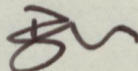
12. I understand that the Environment Secretary will favour special arrangements to allow boroughs to opt out of ILEA by 1 September 1989: he believes this will lead to lower spending and help with transition to the community charge. He is also likely to agree with Mr Baker's general aim on community charge capping, but to want the details sorted out between officials.

TIMING

13. Mr Baker wants agreement now so that he can issue a consultation paper and ask for responses before he publishes his Bill. However, there are a number of important issues which he has not yet addressed in detail. You will want to ensure that these are properly dealt with before a consultative paper is issued.

HANDLING

14. You will want to ask the Education Secretary to introduce his paper. The Environment Secretary will wish to comment. The Chief Secretary, Treasury and other Ministers may also wish to contribute.



J B UNWIN

29 July 1987