

CCBGT



Cesler

Prime Minister

CAPPING THE COMMUNITY CHARGE

ATTACHED

At its meeting on 2 July, E(LF) concluded that there should be a scheme for capping the community charge and that this should not be confined to the transitional period when the community charge was being phased in. This letter seeks colleagues' agreement to the capping scheme to be adopted.

Annex A to the paper discussed on 2 July outlined a scheme based on the approach adopted in Scotland. I have given further thought to that approach and still favour the general basis of the Scottish system, with its considerable merit of the immediacy of in-year action to reduce charges. I have developed the outline further, with some modifications to take account of circumstances during a transitional period.

The scheme which I now have in mind is set out in the Annex to this letter. Its principal features are that it would allow me to intervene and reduce authorities' charges at the start of the financial year for which they had been set; and that I could select authorities for capping on the grounds both of excessive levels of charge and of excessive year-on-year increases. In broad outline, the scheme would operate as follows:

- | | |
|-----------|--|
| March | Authorities set their gross community charge. |
| April | Government selects authorities for capping on the basis of excessively high charges or excessive increases in charges over previous year; and fixes provisional lower charges. |
| April-May | Selected authorities have opportunity to apply for provisional limits to be increased. |



May-June Authorities' representations considered.

July Lower charges fixed by Order.

It is possible, given the need to act quickly at the start of the financial year, that we might want to bring forward from 1 April to the beginning of March the date by which authorities must fix their charges.

As I suggested in the earlier paper for E(LF), it may not be possible under a system of this sort to seek spending reductions as large as under the existing ratecapping system, or to embrace as large a number of authorities within the system. These possible drawbacks are, however, outweighed by major advantages - the speed with which the Government would be seen to have reduced existing bills; the move away from selection criteria which depend on accounting definitions susceptible to abuse by unscrupulous authorities; and downward pressure on charges, since the only way for an authority to avoid selection - by whatever means, including creative accounting - would be to hold down the demands made on chargepayers.

Subject to any further views which colleagues may have on the proposals, I would like them to be worked up urgently for inclusion in the Bill. In view of the season and of the tight timetable for drafting legislation, I would be grateful if they would let me have any comments by the end of this week, 31 July.

I am copying this minute to members of E(LF) and to Sir Robert Armstrong.

N R

28 July 1987

CAPPING THE COMMUNITY CHARGE

1. This note outlines proposals for a scheme of "community charge capping" in England and Wales. This would operate during a transitional period leading to full introduction of the community charge and could operate indefinitely thereafter.

General

2. The shape of the scheme would be similar to that adopted in Scotland, which in turn was based on the existing Scottish system of ratecapping. The essence of that system is the Government taking in-year action to reduce bills as soon as possible after they have been sent out, rather than reacting to a council's excessive spending plans for one year by limiting its expenditure through a cap on the rate or charge in the following financial year. The scheme outlined below does, however, include some variants to the Scottish model, some of which are needed to take account of the conclusion reached at E(LF) on 2 July 1987 that the charge should run alongside rates during a transitional period.

Selection of authorities for capping

3. The approach in selecting authorities for capping under the new system would operate as at present in England and Wales by the application of general principles which determined what was excessive. It should, however, avoid the present difficulty under the English system, of authorities manipulating the presentation of their budgets to reduce their apparent expenditure, by concentrating instead on the revenue actually raised from ratepayers and chargepayers through an authority's precept on the Collection Fund. (This is the fund on which local authorities from both tiers will precept for the income to finance their spending. Into it will be paid the needs grant from central Government, income from the national non-domestic rate, and receipts from the charges levied by both tiers on ratepayers and chargepayers.) This precept is in effect a proxy for the authority's spending.

4. The principles for selection would be based afresh each year on a combination of some or all of the following factors:

(a) a cut-off to exclude authorities where the absolute level of the precept, or the precept per head of adult population, was below a specified figure;

(b) an excess of the overall precept, or the precept per head, over a specified margin above the amount implied by the Government's assessment of an authority's need to spend;

(c) an excess of the overall precept, or the precept per head, over a margin specified in cash or percentage terms compared with the preceding year (with provision to make a notional comparison with the last year before transition).

As at present, the selection criteria could distinguish if necessary between classes of authority, and between those capped in the previous year and those not. At the end of the transitional period, the notion of "precept per head" would equate directly with the level of an authority's gross community charge per adult. By limiting this gross charge, the charge net of grant and non-domestic rate income would effectively be limited too.

5. The aim of the selection criteria powers would be to provide the Secretary of State with sufficient flexibility to cap authorities where the level of gross charge, or the year-on-year increase, or a combination of both, was excessive. The powers would be drafted both to exclude explicit duties on the Secretary of State to make judgements about what is "reasonable" on local authorities' part, and to minimise within the areas of discretion open to him the number of points where the implicit duty to act reasonably could give rise to legal dispute. The aim here would be to make decisions on selection for capping as proof as possible against challenge by judicial review.

Securing reductions from the capped authorities

6. At the same time as the announcement of selected authorities (probably in the second half of April) the Secretary of State would notify them of the provisional limit he was placing on their precept on the Collection Fund. This would probably be done by reference to general principles to reduce the risk of legal challenge to the use of his discretion affecting individual authorities. An authority would be able to apply for the limits on its precept to be fixed somewhere between the level it had set and the provisional limit notified by the

Secretary of State. To do so it would have to submit its application and various prescribed information before the end of a specified period (probably by late May); and it would also be able before the end of that period to submit any representations in support of the application.

7. The Secretary of State would aim to reach a decision on applications by the end of June. If he were to decide that an authority's original precept should stand, he would formally notify the authority of the fact. If he decided on a lower figure, this would be prescribed in regulations subject to affirmative resolution in the Commons (during the course of July). The legislation would need to provide some form of parallel to the existing powers under ratecapping to reduce the provisional limit or, if allowing a higher limit, to impose conditions relating to the authority's expenditure or financial management.

8. Once an authority was in receipt of a statutory notice limiting the amount it could precept on the Collection Fund, fund managers would be under a duty to ensure that no more than the new amount was levied for the authority or paid to it for the year as a whole. The authority itself would be required within a statutory period to reduce its level of charge by the appropriate amount: if it failed to act before the end of that period, the original charge demands would become invalid from that point. In the transitional period, all of the reduction would fall on the community charge rather than on the residual rate element (subject to a minimum reduced level of charge, to prevent cases where it might otherwise be reduced to an impractically small, or even negative amount).

Department of the Environment

July 1987