

CJBG



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My ref:

Your ref:

The Rt Hon John Major MP
Chief Secretary
HM Treasury
Parliament Street
LONDON
SW1P 3AG

14 April 1988

Dear Chief Secretary,

OVERSEER SCHEME

A1ap A134

Thank you for your letter of 18 March, commenting on the proposals for an overseers scheme which I circulated under cover of my minute of 23 December to the Prime Minister. We have now received the advice of the Law Officers on my powers to make loans. They have confirmed that I have the necessary inherent powers, though these would have to be exercised in an appropriately prudent fashion, which could be used without the need for legislation on the first occasion on which it was necessary to lend to a council to help implement a recovery plan.

I understand that we are now to discuss this topic at the meeting of E(LP) which has been arranged for Monday 18 April. I thought it might therefore be helpful if I set out my reactions to the correspondence which has taken place and identify the issues which I think we need to address at the meeting.

Before turning to the substance of your letter, I should like to comment on some of the points made by colleagues in the Private Secretary correspondence earlier this year. I was grateful for the general support that was expressed for the overseers proposal, and for the Local President's assurance that there should be no difficulty in drafting a simple Bill, on a contingent basis, and that this would stand a good chance of being a Money Bill. I have also noted the views expressed by Douglas Hurd and John Moore on the degree of Government involvement in the approval of the recovery plan. Clearly this is an issue on which collective discussion would be helpful, and I would not wish to pre-empt this; but I should say that at present I stand by my view that to require Ministerial approval of the recovery plan would be a serious error. It is likely that during the recovery period extremely hard decisions would have to be taken on retrenchment and on levels of service provision, and that close Government involvement would cause presentational difficulties without actually giving us a great deal of scope to influence events. However, I do not accept that an arms-length

approach dictates appointment by some other body; on the contrary, appointment by the Government would facilitate the withdrawal of the overseer if the authority ceased to co-operate, and thus strengthen his hand in ensuring compliance with the recovery plan. The threat of termination of the arrangement, with its likely effect on the confidence of potential leaders, is a strong sanction.

This leads me to your letter of 18 March, where you propose that overseers should be appointed on a provisional basis in the first instance. I believe that this has much to commend it; it would enable us to react swiftly to an approach from an authority, on the basis of the information available to us, and then take a more informed view over a slightly longer period of whether we should persist with the scheme. It would however seem to require the overseer to be appointed by the Government if we are to retain full control over the appointment.

I am, however, considerably less happy about your suggestion that emergency lending (which, whether or not it requires prior legislative cover, is likely to be crucial to the success of any scheme) should be limited to the period of this provisional appointment, which you suggest would be a very few weeks. It is possible that within this time an authority's creditworthiness may be restored and a suitable financing package on acceptable terms worked out, but it is far from certain that this will be the case. And if it is not, it would be extremely damaging for Government to be seen to withdraw assistance prematurely and thereby bring about the collapse it was attempting to stave off. I would agree that we need to be extremely careful in providing emergency finance in these circumstances, and to guard against the possibility of an authority exploiting the situation for its own ends. Certainly any assistance should be temporary, but I feel strongly that we should be prepared to be flexible and to make emergency lending in some form available for at least a year, if the circumstances warrant it.

In the same way, I believe we should not fetter ourselves unduly over the termination of the scheme. We should not have any qualms about disengaging from any authority which was not prepared actively to pursue its agreed recovery plan. Equally, we should not commit ourselves in advance to the automatic withdrawal of support from any authority which departed from the recovery plan. It would not be in anyone's interests to precipitate a collapse unnecessarily, and I believe we must retain the same discretion in withdrawing from a scheme as you rightly say we must have in appointing overseers in the first place.

Finally, I quite accept that the scheme is of limited application, and that it may never be used. It was, however, agreed in discussion in MISC 109 last year that we would work up further a scheme for assisting a local authority in severe financial difficulties, and which was willing to co-operate, to avoid collapse without resorting to the appointment of Commissioners. It has always been recognised that if the

authority was not willing there was little we would do but, at the appropriate time, discharge the councillors and put in Commissioners in their place. It may well be that the right circumstances for deploying overseers never arise, but if an authority did ask for assistance there is certainly much to be said for having a suitable scheme worked up in advance so that we could offer practical help.

I would suggest that the principal issues we need to address in E(LF) are:

- i. whether (in the light of the Law Officers' advice) the "no prior legislation" scheme offers the best way forward;
- ii. the nature of Ministers' involvement in the approval of recovery plans;
- iii. whether the appointment of overseers should be provisional in the first instance;
- iv. the maximum period over which emergency lending should be made available.

I am copying this letter to the other members of E(LF), to Patrick Mayhew and to Sir Robin Butler.

Yours sincerely,
Deborah Lamb

PP NICHOLAS RIDLEY

(approved by the Secretary of State)
(in draft & signed in his absence)



LOCAL GOVT: Relations PT35.

