SECRETARY OF STATE FOR THE ENVIRONMENT

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My ref:

Your ref:

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Minister of State for Social Security
and the disabled
Department of Social Security
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9 September 1988

Dear Minister

COMMUNITY CHARGE: DEDUCTIONS FROM BENEFIT

Thank you for your letter of 9 August about the way forward in implementing our decision to permit deductions from income support to pay off community charge arrears.

Clearly, your lawyers must draft the regulations and the substance of the community charge deductions scheme must align with your other schemes. I am not convinced, however, that it would be sensible to have the deduction regulations separate from the main regulations. Deduction from benefit is part and parcel of our system of enforcement. It was specifically intended to parallel exactly the provisions for attachment of earnings and the Act provides for the two remedies in neighbouring paragraphs of the same schedule of the Bill. I understand your wish to be able to amend all deduction powers in parallel; but the fact that these particular powers would be included in a larger set of regulations would not, I think, make them any more difficult to amend. And the problems you foresee for local offices could be overcome simply by retaining copies of only those parts of the regulations which apply to DSS.

Against your arguments we must set the administrative inconvenience of having an enforcement system, which was specifically intended to be all of a piece, contained in two separate instruments. Local authorities will complain that there is no logical reason for the distinction - an argument which it would be difficult to deny. And, as you will know, the deduction provisions are particularly sensitive. To have them contained in separate regulations would draw attention to them and would give our opponents a further opportunity to prolong debate on them. For all these reasons I think it would be more sensible for them to be included with the main administration and enforcement regulations.

I am broadly content with the details of the scheme as you set them out with one exception. I agree that 5% of the personal rate

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for a single person would be an appropriate maximum deduction: you will recall that this was the amount I suggested in my letter of 11 March to John Moore. I agree also that appeals should lie in the first instance to a Social Security Tribunal. I am not happy, however, with your proposals for priority.

As I explained in my letter of 11 March, I believe that community charge should be given a high priority. Its importance is reflected in the fact that failure to pay is punishable by imprisonment. It is possible that income support recipients facing multiple debt problems would be held by the courts to have been culpably negligent if they are unable to pay their community charge. Culpable neglect is one of the two grounds on which a person can be sent to prison for not paying the charge. Clearly this would have very serious consequnces for the claimant and his family. I think, therefore, that we must ensure that the system will enable community charge deduuctions to be made even where there are other claims on the income support.

You are concerned about the possibility of current liability accruing while a debt is being paid off. You will recall that in my letter of 11 March I suggested that this situation could be tackled in the same way as is provided for in the existing deduction schemes, by making the deduction the aggregate of two amounts. The first would be an amount towards the debt, up to the maximum of £1.70. The second would be an amount towards the continuing liability, which may consist of anything up to the actual weekly cost of the charge. As with housing costs, there would be a power for the adjudicating authority to direct that the actual weekly amount could continue to be deducted and paid directly after the debt had been discharged.

As to the addition of costs to liability orders, I agree that we will need to look at this in the context of the costs provisions of the enforcement regulations.

Finally, you raise the matter of PES transfer. I do not understand your reference to John Moore's letter of 20 February (which I take to be a misprint for 29 February). That implied that he would be making a running costs bid in this survey. There was no mention of PES transfers. Nor, in my view - contrary to the view set out in John Major's letter of 23 August - would a PES transfer be appropriate in a case such as this, involving a collectively agreed policy central to our overall programme. The correct course would be for DSS Ministers to make and justify a bid.

I am sending a copy of this letter to members fo E(LF), Malcolm Rifkind and to Sir Robin Butler.

Yours sincerely

R Ridley

NICHOLAS RIDLEY

PP (approved by the Secretary of State and signed in his absence)