

ccp



2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

My ref:

Your ref:

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

Mr B... to the steps.

Rec 2 December 1988

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Dear Chief Secretary

LOCAL AUTHORITY FEES AND CHARGES

In the light of the Prime Minister's view (as expressed in her Private Secretary's letter of ~~28~~ November) I am prepared to proceed on the lines suggested in your letter of 22 November. There are, however, a number of issues concerning the nature of the enabling power which remain to be resolved.

First, I propose to confine the power to enabling local authorities to charge and not to proceed with the proposition (reflected in the draft clauses) that it should be capable of being used to require local authorities to charge.

Second, I am concerned about the proposition (also reflected in the clauses as currently drafted) that the power should be capable of being used to override existing statutory prohibitions on charging. I do recognise, however, that it will be necessary to override existing statutory prohibitions on charging for library services, if Richard Luce is to give effect to his proposals. I propose, therefore, to provide for this one prohibition to be overridden, but not to allow the enabling power to be used generally to override statutory prohibitions.

Third, as you know, there is an outstanding difficulty with Malcolm Rifkind concerning the form of words to be used to refer to consultation with local government. I see no way of avoiding considerable embarrassment if we use two forms of words, to refer to consultation north and south of the border, as Malcolm has proposed. I therefore propose that the enabling power in the Local Government and Housing Bill should apply in England and Wales only, so that Malcolm can make separate legislative provision for Scotland.

Fourth, there is the question of whether the enabling power should be capable of being used by the Lord President in respect of library services. I have no objection to this approach, and my officials will therefore ask Parliamentary Counsel to amend the draft clauses accordingly.

Finally, I agree with your suggestion that the Bill, on introduction, should indicate that regulations made under this power will be subject to affirmative resolution procedure.

I am copying this letter to the Prime Minister, members of E(LF) and Richard Luce.

Yours sincerely
RB

RB

NICHOLAS RIDLEY

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

LOCAL GOVT: Relations
PT 36



CONFIDENTIAL



Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon Nicholas Ridley AMICE MP
Secretary of State for the Environment
Department of the Environment
2 Marsham Street
London
SW1P 3EB

22nd November 1988

Dear Nick,

LOCAL AUTHORITY FEES AND CHARGES

Thank you for your letter ^{below} of 17 November. I have also seen Peter Walker's letter in support of mine of 14 November.

I have considered carefully your revised proposal to introduce a power to set charges for the specific items identified in the attachment to your letter. With great reluctance I must say that I am not convinced that this would be the right way forward.

First I wonder whether, starting at this late stage, it would prove possible to draft the necessary schedule in time: it would involve a wide range of Departments in preparing for primary legislation now, rather than secondary legislation on the more relaxed timetable that had previously been envisaged. In practice I suspect several of the candidates in the list might have to be dropped.

Second, such a proposal - especially if we lose some of the candidates - falls a long way short of the general enabling power which was discussed and approved in E(LF) last year and confirmed only six months ago. It would be a meek measure rather than the general power which Christopher Chope confirmed to Parliament that we would introduce "at the earliest legislative opportunity".

My preference therefore remains that we should introduce the general power, thus setting the legislative basis for the specific items you have identified above and any other we might wish to introduce in the future. We ought to bear in mind that change in LA functions in prospect in areas like housing, community care etc

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Housing Policy
Pt 13

and the new post 1990 financial regime (including greater contracting out) ought to lead to a more enabling and overseeing role for local authorities - for which they can and in most cases should charge.

I do accept, of course, that there could be Parliamentary difficulties in presenting the new power. But the solution lies in making our intentions clear and perhaps showing a willingness to discuss each and every application of the powers in future. Thus in the primary legislation it should be possible to specify general areas where the powers would not be used (this was our agreed intention earlier); and, if absolutely necessary, we could give the opportunity for debate on each proposed application of the power by having the secondary legislation subject to Affirmative Resolution.

I would be grateful for your further views on this. I am copying this letter to the Prime Minister, other members of E(LF) and to Sir Robin Butler.

Yours Ever,
John
JOHN MAJOR

PMF

12.2.91



ref
 2 MARSHAM STREET
 LONDON SW1P 3EB
 01-276 3000

nbpm

My ref:

Your ref:

The Rt Hon Malcolm Rifkind QC MP
 Secretary of State
 Scottish Office
 Dover House
 Whitehall
 LONDON
 SW1A 2AU

22 December 1988

Dear Malcolm

LOCAL AUTHORITY FEES AND CHARGES

Thank you for your letter of 8 December.

I have no wish to deny you the opportunity to legislate for fees and charges in Scotland and I am therefore willing to accept that the provisions in the Local Government and Housing Bill should apply throughout Great Britain. I would have, however, to ask you to reconsider your objections to the original consultation formula, which has already been applied in Scotland, as well as in England and Wales, by the Local Government Act 1988. I am very keen to take all steps that are open to me to minimise the controversy which the fees and charges clauses are bound to arouse; one such step is to ensure that we include only one form of words on consultation.

I am particularly concerned about the risk that, as the draft clauses stand, the Scottish formulation may cast doubt on our intentions in England and Wales. I suggest, therefore, that our officials get together urgently to discuss the formulae that are to be used throughout the Local Government and Housing Bill to refer to consultation with local government. If we are of one mind on that, we can provide further fees and charges in Scotland too.

I am copying this letter to the Prime Minister, members of E(LF), Richard Luce and to Sir Robin Butler.

Nicholas Ridley

NICHOLAS RIDLEY

LOCAL GOVT: Relations



Pt 36



2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

My ref:

Your ref:

The Rt Hon Richard Luce MP
Minister for the Arts
Office of the Minister for the Civil Service
Horse Guards Road
LONDON
SW1P 3AL

29 December 1988

Dear Richard

LOCAL AUTHORITY FEES AND CHARGES

Thank you for your letter of 12 December.

I accept that making express provision to override the existing prohibition on library charges will have the effect of focussing attention on the public library service. I must also accept your judgement that unless we modify this proposal - by adding the borrowing and reference services to the list of excepted functions - we will face considerable criticism from our own supporters.

There are three options open to us. The first is to go for a general power to override statutory prohibitions on charging; but I do not regard that as acceptable, as I made clear in my letter of 2 November. The second is to go for a straight provision overriding the prohibition on library charges; but you do not regard that as acceptable, for the reasons you have set out. The third is to amend the library prohibition, but to accept that the borrowing and reference services should be added to the list of excepted functions. The third option, if not ideal, seems to be the only way forward.

Time is now very tight, if we are to include revised fees and charges clauses in the Local Government and Housing Bill when it is introduced. Instructions have therefore been sent to Parliamentary Counsel on this basis.

Copies of this letter go to the Prime Minister, members of E(LF), the Chief Whip and Sir Robin Butler.

Nicholas Ridley

LOCAL GOV. RELATIONS

PT 36





SWYDDFA GYMREIG
 GWYDYR HOUSE
 WHITEHALL LONDON SW1A 2ER
 Tel. 01-270 3000 (Switsfwrdd)
 01-270 (Linell Union)



nsp *CCM*

WELSH OFFICE
 GWYDYR HOUSE
 WHITEHALL LONDON SW1A 2ER
 Tel. 01-270 3000 (Switchboard)
 01-270 (Direct Line)

Oddi wrth Ysgrifennydd Gwladol Cymru

From The Secretary of State for Wales

THE RT HON PETER WALKER MBE MP

16 December 1988

Dear Secretary of State

LOCAL AUTHORITY FEES AND CHARGES

Richard Luce has copied to me his letter of 12 December about the enabling power.

I share his concern about your proposal and support his suggestion for a limited power which overtly protects the core of the free library service.

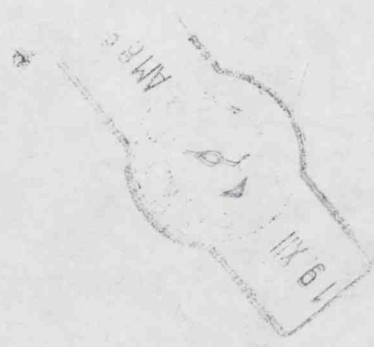
Copies of this letter go to the the Prime Minister, Richard Luce, members of E(LF), the Chief Whip and Sir Robin Butler.

Yours sincerely
Keith Davies

Approved by the Secretary of State
 and signed in his absence

The Rt Hon Nicholas Ridley MP
 Secretary of State for the Environment
 2 Marsham Street
 London
 SW1P 2EB

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Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon Nicholas Ridley AMICE MP
Secretary of State for the Environment
Department of Environment
2 Marsham Street
London
SW1P 3EB

16th December 1988

Dear Nick,

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LOCAL AUTHORITY FEES AND CHARGES

Many thanks for your letter of 2 December. I welcome your agreement to the introduction of a general enabling power for local authorities to set fees and charges.

I am also content that the power should be introduced on the basis of being an enabling power only that it could not be used to require local authorities to charge. I am also content in general that the power should not be capable of overriding existing statutory prohibitions on charging. As you note, it will be necessary to override these prohibitions for library services.

I support the introduction of the general power in Scotland at the same time as in England and Wales. I understand that Malcolm Rifkind is writing to you separately on this.

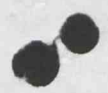
I am content with your other proposals on the form of the power in your letter.

I am copying this letter to the Prime Minister, members of E(LF) and Richard Luce.

Yours Ever,
John

JOHN MAJOR

LOCAL GOVT
Relayang Pt 36



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OFFICE OF ARTS AND LIBRARIES
Horse Guards Road
London SW1P 3AL
Telephone 01-270 5929

From the Minister for the Arts

C88/6075

The Rt Hon Nicholas Ridley AMICE MP
Secretary of State for the Environment
2 Marsham Street
LONDON SW1P 3EB

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RAC 6
13/12

12 December 1988

Dear Nicholas,

LOCAL AUTHORITY FEES AND CHARGES

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I have seen a copy of your letter of 2 December to John Major about the enabling power.

Your current proposal to override existing statutory prohibitions on charging has the same effect of singling out the public library service for exceptional treatment as your proposal of 9 November. I should be accused of taking a special power to dismantle the free public library service piece by piece. Our supporters would regard this as flying in the face of all commonsense, especially since the additional income to be earned from the charges I propose to legalise would be very small - perhaps £5m - £10m per annum.

If the only way forward now available is to take a power for the library service only, I think it essential to limit this power in such a way as visibly to protect the core of the free service in the Bill itself. I therefore intend to exclude from the scope of the enabling power - just as we now intend to except the police etc - the borrowing and reference services which are generally held to be the bulwark of the free public library service:

- (i) the borrowing of any book, journal, pamphlet or similar article (or facsimile reproduction) by any person living, working or studying full-time in a library area; and
- (ii) the reference use/consultation of any of the materials in (i) by any person within the library.

This would still make it possible for us to use the enabling power and its overriding of statutory prohibitions to correct the

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anomalies referred to in the Green Paper, to charge for non-print materials and to charge for special research and other assistance by library staff.

Since time is short I have instructed my officials to talk to yours about drafting a clause on these lines.

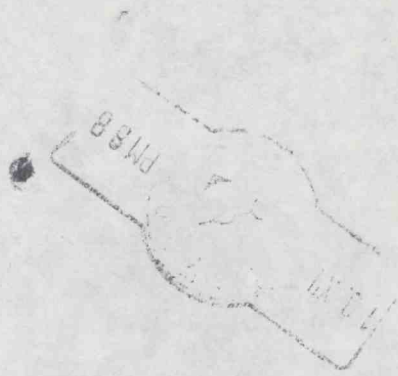
Copies of this letter go to the Prime Minister, members of E(LF), the Chief Whip, and Sir Robin Butler.

RICHARD LUCE

Richard

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LOCAL GOVT: Relations PT 36





SCOTTISH OFFICE
WHITEHALL, LONDON SW1A 2AU

cces

The Rt Hon Nicholas Ridley AMICE MP
Secretary of State for the Environment
2 Marsham Street
LONDON
SW1P 3EB

*NBRM
at his desk*

*Race
An*

8 December 1988

Dear Nicholas,

LOCAL AUTHORITY FEES AND CHARGES

at flat

Thank you for sending me a copy of your letter of 2 December to John Major.

I am quite content that you should, as you propose, confine the power to enabling authorities to charge; and I am content also with what you say about override.

I am however disappointed that you do not feel able to use this opportunity to extend the new charging powers to Scotland. As I said in my letter of 3 March, I could not guarantee another early opportunity to take such powers in relation to Scotland. I recognise that there is an awkwardness about our different approaches to consultation with local government (and for the convenience of copy recipients, I attach a copy of my letter of 3 March, in which I set out my reasoning on this issue). But I would have hoped that you would find it possible to offer Parliament some reasonable explanation of why you are now approaching the matter differently. For my part, there is a general readiness to accept, often fairly uncritically, that things are different in Scotland and that this must be reflected in our legislation. I find it hard to believe that the issue would give rise to all that much difficulty in Parliament.

Obviously, I have to accept your judgement on this but I would be grateful if you would look at the matter again. It would be very convenient if we could enact the new power on fees and charges now, for both sides of the Border.

I am copying this letter to the Prime Minister, members of E(LF), Richard Luce, and to Sir Robin Butler.

*Yours ever,
Malcolm Rifkind*

MALCOLM RIFKIND



SCOTTISH OFFICE
WHITEHALL, LONDON SW1 2BD

The Rt Hon Nicholas Ridley AMICE MP
Secretary of State for the Environment
2 Marsham Street
LONDON
SW1

3 March 1988

Dear Nicholas

LOCAL GOVERNMENT FINANCE BILL: FEES AND CHARGES

As you may know, our officials have encountered difficulties in preparing the draft clauses on fees and charges.

The Regulations to be made under the new powers are to be subject to consultation with the local authorities. I understand that you do not want to be bound to consultation with the English local authority associations, whatever they may be at any particular time, and therefore that as far as England and Wales are concerned you propose that the statutory obligation should be to consult "such representatives of local government as appear [to you] to be appropriate". That formulation causes me considerable disquiet and, so far as Scotland is concerned, I would prefer the requirement to be to consult with "such associations of local authorities as appear [to me] to be appropriate". This is the conventional formulation used in all earlier Scottish legislation - and, so far as I am aware, in earlier English legislation.

My reasons for not wanting to adopt your proposed new formulation are straightforward. The requirement for me to consult "such associations of local authorities as appear to me to be appropriate" on all sorts of matters concerning local government may well be tedious. But at least I know precisely whom I am obliged to consult and, provided I do so, I am secure from legal challenge. If I was required to consult "such representatives of local government as appear to me to be appropriate", it would not be clear to me with whom I am obliged to consult. The fact that I am given a discretion as to which "representatives of local government" I am to consult (namely those appearing to me to be appropriate) does not help me to determine what is meant by "representatives of local government", which has no particular meaning in Scotland. If I were to consult this or that local authority or councillor or local official or groups of such authorities or persons, I am advised that I could be open to judicial review on two grounds, namely

- a. that the authorities or persons or groups whom I had consulted were not "representatives of local government" and
- b. that I should have consulted other authorities or persons or groups who claimed to be representatives of local government.

in the light of that requirement, I was in fact considering the Association of Scottish Local Authorities, which is the only association of local authorities which we have at present. I would be no doubt that this would fulfil the statutory requirement. I would be vulnerable to challenge from other groupings of local authorities who can, on individual issues, have different views from those of the association to which they adhere and who might be able to claim that they were more representative of local government on those issues than the association itself.

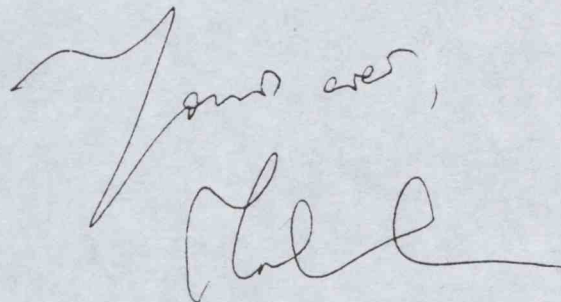
This is not simply an academic point. Relations with local authorities in Scotland are not easy, but in general our disagreements do not reach the Courts. In fact, far from regarding the obligation to consult local authority associations as being onerous, it is a convenient protection that saves me from much more extensive and elaborate consultations that might otherwise be required.

I hope you will therefore agree that, in the three proposed new clauses on fees and charges, provision can be made that in their application to Scotland the reference to representatives of local government shall be construed as a reference to associations of local authorities.

I quite take the point that this will point up the different consultation requirement that you propose in England. But I hope you would feel able to explain that difference on the basis of different circumstances in England, where I understand that local authority associations split and re-form from time to time.

If you feel unable to agree to these separate Scottish references, then the alternatives open to me are unpalatable. For the reasons I have explained, I could not make do with your proposed obligation to consult "representatives of local government". Of the other options that would be open to me, it would be hard to explain excluding Scotland from the requirement to consult; I would prefer not to opt out from the new power, since I could not guarantee another early opportunity to take such powers in relation to Scotland; and the only other alternative would appear to be to have quite separate Scottish clauses in Part XI. But our difference in approach to consultation would still be very clear - and I am advised that I would need the same number of new clauses to cover the same ground as can be achieved by minor adaptation of the 3 clauses that you already propose.

I am copying this letter to John Major, David Waddington, Bertie Denham and to Sir Robin Butler.

Yours ever,


MALCOLM RIFKIND

LOCAL GOVT: Relations Pt 36

From: THE PRIVATE SECRETARY

~~CCFO~~



HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

30 November 1988

NBM

B216

1/12

Dear Nicholas,

LOCAL AUTHORITY FEES AND CHARGES

at flat

I have been following your exchange of letters with John Major on how we should implement E(LF)'s decision to widen local authority powers to levy fees and charges.

Although I understand the political risk of seeking a general enabling power, the alternative you propose also presents difficulties. Listing specific areas may prove unduly restrictive, resulting in time-consuming discussions on the existence of some activities which will come within the scope of the power (e.g. sex shops) and, more important, may cut across the need to consult interested parties before making our intentions known in the Bill.

On balance, I favour taking a general enabling power which would allow us to move at a more leisurely pace and consult as necessary before introducing secondary legislation. I agree with John Major that we should be prepared to offer the Affirmative Resolution procedure as a means of heading off criticisms about the use of the new power. If we are to adopt this general approach it would, of course, be necessary to specify exemptions as agreed by E(LF) for such services as policing, firefighting and the conduct and registration of elections. I understand that work defining these areas is well advanced.

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

*Jones,
Doyl*

The Rt Hon Nicholas Ridley, MP.

LOCAL Grav. T. Relation p. 36

