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The Rt Hon Christopher Patten MP
Secretary of State for the Environment
2 Marsham Street
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ROYAL COURTS OF JUSTICE
LONDON, WC2A 2LL

Prime Minister

To note.

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4/4

3 April 1990

MM

Dear Secretary of State,

COMMUNITY CHARGE CAPPING 1990/91

See Pt. 17

Following the meeting chaired by the Prime Minister on Tuesday 27 March, I was asked to consider to what extent Ministers could publicly rebut claims by local authorities selected for capping that the process would have unacceptable implications for their services. The context within which the advice was sought was one in which a local authority was seeking judicial review of the decision to cap.

There are three pitfalls to be avoided in ascending order of seriousness ... irritating the court; damaging the case by ill-judged fact or comment; and ultimately contempt of court. But provided a Minister's defence of the Government's position is expressed in general and measured terms, and avoids commenting on the individual case before the court there is no reason why it should not be expressed clearly and robustly. To constitute a contempt of court the comment would have to create a substantial risk that the course of justice in the proceedings would be seriously impeded or prejudiced. If these guidelines are followed this is most unlikely.

To expand on the above, it would not in any event be appropriate for Ministers to comment directly on proceedings before the court. But Ministers should also refrain from making impromptu statements which may conflict with the factual and objective basis on which the rate capping decision was reached. It is important that statements by Ministers do not conflict or throw doubt on the necessarily detailed affidavit evidence submitted by you and your Department to demonstrate the rationality and reasonableness of the decision. It would also



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be unfortunate, for example, if unguarded comments by Ministers were to suggest that control of a particular local authority by a particular party had been a material factor taken into account in the rate capping decision.

But subject to these points I do not think that Ministers need feel themselves unduly constrained in arguing the Government's broad political case, for example that standard spending assessments provide adequately for an area's reasonable needs; that areas that have been charged capped have been carefully examined by the Secretary of State and have been judged for good reason to have been raising charges that are excessive; and generally in favour of the new system of local Government finance.

I am copying this letter to the **Prime Minister**, Geoffrey Howe, David Waddington, Kenneth Baker, Kenneth Clarke, John MacGregor, Tony Newton, Norman Lamont, Tim Renton, David Hunt, Angela Rumbold, Tim Eggar and to Sir Robin Butler.

Yours sincerely,

Michael Carpenter

APPROVED BY THE SOLICITOR GENERAL
AND SIGNED IN HIS ABSENCE

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LOCAL GOVT: Comm Charge Pt. 18.

