



Private Secretary to
The Rt Hon Sir Geoffrey Howe QC MP
Lord President of the Council
Privy Council Office
Whitehall
LONDON
SW1A 2AT

Prime Minister
Overtaken by events.
Court of Appeal has set
aside earlier findings, on
the understanding DOE will
not complete proceedings
till 18 June. By
then Courts will have
pronounced on all
Doncaster judicial review proceedings.

cc PH
2 MARSHAM STREET
LONDON SW1P 3EB
01-276 3000

My ref:

Your ref:

15 May 1990

BHP

15/5

Dear Tim,

COMMUNITY CHARGE CAPPING: LEGAL ACTION BY DONCASTER METROPOLITAN BOROUGH COUNCIL AND OTHERS

I wrote to you on 11 May about the High Court's direction that my Secretary of State should not proceed to lay a capping order before the House until the completion of the judicial review proceedings brought by Doncaster and 19 other authorities designated for capping this year. I am now writing to let you know where matters currently stand.

Mr Justice Roch gave leave yesterday for an appeal to the Court of Appeal against the High Court's direction not to proceed with the capping orders. The appeal started at 3.30 yesterday before the Master of the Rolls and Lords Justice Taylor and Staunton. The substantive hearing on the point of whether the courts have jurisdiction to direct the Crown in this way will be held today.

The Appeal Court indicated last night that they might well ask my Secretary of State for some kind of undertaking that he would not proceed until the litigation was finished, irrespective of their decision about jurisdiction. The Court made it plain that in their view my Secretary of State should hold his hand to avoid what they saw as a risk that local authorities might have to incur substantial costs in rebilling unnecessarily. The Court also strongly indicated that it would seek to bring forward the start of the main judicial review proceedings from 19 June to 5 July.

In these circumstances, whilst there can be no question of giving an undertaking, Treasury Counsel has advised that we should tell the Court that as a matter of fact the capping process, given the delay which has already occurred, will not be completed before 18 June.

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Rates

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This will in practice enable the main judicial review hearing to be completed before the capping process is finished, and hence is a way of meeting the Court of Appeal's concern that we should avoid the risk of forcing local authorities to incur nugatory expenditure.

I shall let you know how matters proceed further.

I am copying this to Barry Potter at No 10, John Gieve in the Chancellor's office and to Michael Saunders at the Attorney General's Chambers.

Yours

Phillip

PHILLIP WARD
Private Secretary

