

PRIME MINISTER

THE COMMUNITY CHARGE

Tomorrow's meeting provides the opportunity to take the key
decisions on the community charge.

At Flag A is the minute from the Chancellor; at Flag B the note from Mr Patten (which you have not previously seen); and at Flag C the paper by officials (prepared under Richard Wilson's chairmanship). At Flag D is a note from the Lord President on the implications for the Legislative Programme. At Flag E is the Cabinet Office brief. At Flag F is a letter from DoE explaining further legal advice on capping. Finally at Flag G, as background, I attach other recent briefing notes on the community charge.⁺

Main Issues

The main issues for the discussion are as follows:

- 8-a.
- (a) whether to set cash limits from 1991-92 on the largest local authorities; and if so
 - (b) whether the necessary "safety valve" should take the form of a referendum;
 - (c) whether to set an extra community charge, set at a national level, for those on high incomes;
 - (d) whether to extend and improve transitional relief;
 - (e) whether to improve community charge benefit;
 - (f) whether to extend the powers of the Audit Commission to undertake value for money work;
 - (g) whether to defer any new burdens on LAs.

+ At Flag H is a note from Mr Kiffand.

On the last two issues (f) and (g) there is broad agreement to the proposals in the officials' paper. There is also considerable common ground on the need to extend and improve transitional relief (d): further work will be necessary on details. Although Mr. Patten wants some further help on community charge rebates (e), neither you or the Chancellor support this.

The two key issues for the discussion are therefore whether to introduce the extra charge for those on high incomes (d); and whether to introduce the cash limits/referendum approach (a) and (b).

Extra Community Charge (c)

You put forward this proposal yourself. Mr Patten continues to support this and indeed he earlier wanted to extend the principle to a form of banding, with a half extra charge for those on modest incomes. But the Chancellor has now come down against even the extra charge for those on high incomes because it would detract from the flat rate nature of the community charge. You indicated to him on Monday that you would be content not to pursue this proposal further.

Cash Limits and Referendum (a) and (b)

The central policy dilemma is simple: to introduce a cash limit approach; or to go for a conventional grant settlement. It may be helpful to set out the stance of the various Ministers.

Mr Patten's position (backed by Mr Portillo) is as follows:

- i) the basic community charge system should be left in place;
- ii) there should be no new legislation;
- iii) there should be a large injection of AEF to keep down community charges;

- iv) there should be stronger capping powers to increase the number of authorities covered, (from around 20 to around 50 was his earlier proposal); but as Flag F indicates it has become clear today that this would require legislation;
- v) if the idea of cash limits and referendum is to be pursued, it should be first floated in a Green/White Paper - with no action for 1991-92 .

This line will be supported by Mr Rifkind. It may also get support from Mr Hunt.

The Chancellor's public position is as follows:

*Control 1
Public Law /
Committee Change*

- i) the decisions on cash limits need to be taken at the same time as a decision on AEF;
- ii) the political difficulties of the cash limit approach are a major concern - the advice of the Chief Whip should be sought; but
- iii) there may be attraction in introducing the cash limits for next year on a temporary basis; and in floating in a Green/White Paper the idea of cash limits and referendums/local elections thereafter.

The Chancellor's private position would appear to be as follows:

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Excl. 14 1/2 2*

- i) if the political difficulties in legislation look insurmountable, a low grant settlement is a possible alternative to the introduction of cash limits;
- ii) this would be accompanied by stronger capping powers, effectively putting limits on the spending of 50 authorities, but not all 110 or so large local authorities.

The advice from the Chief Whip on the political acceptability of legislation is likely to be crucial in determining how far the Chancellor feels able to back his public position.

Assessment

Consideration of the options might focus on which is most likely to achieve the paramount objectives:

- preventing another substantial surge in local authority spending;
- keeping community charges down to politically acceptable levels next year.

The criteria by which one would wish to judge the respective approaches might be as follows.

- Certainty: the cash limits approach, even if accompanied by a limited derogation power for the Secretary of State, leads to fairly certain levels of local authority spending; that enables AEF to be set and community charge levels to be accurately projected.
- Without cash limits, certainty is inevitably reduced. As the Chancellor argues the high grant settlement Mr. Patten is seeking may lead to high spending. But could the Chancellor's low grant settlement proposal lead to fairly high spending and high community charges (this is what happened this year)? Politically, many councils may still feel able to blame central government for high spending and high charge levels.
- Public Expenditure Savings: both the Chancellor and Mr. Patten suggest that the difference between the cash limits on the one hand and grant plus extended capping approach could be £500-£750m. That is worth about £20 on the average community charge.

- Such a sum might be judged too small a prize to make the cash limit approach worthwhile. (But this year's gap in community charge between outcome and realistic projection at this time of year was more like £40 not £20.)

- But might averages be deceptive? Those local councils contributing to the safety net this year should be able to reduce their charges next year for constant real spending - when the Exchequer takes over funding the safety net. Might they not instead go for higher spending rather than feeding through all the extra grant into lower charges? Other local authorities may boost spending and hence community charges (by more than attributable to withdrawal of the safety net), blaming it again on central government.

- Accountability: the cash limits would run counter to the principle of accountability in themselves. But if accompanied by a referendum measure, they can be seen as enhancing accountability. (It may of course be necessary to restrict the referendum for practical and legislative reasons to a Green Paper idea only.)

- Without cash limits, the degree to which accountability will work is uncertain; the Scottish experience this year is said to be encouraging. But that was in a year when there were important local elections. Next year there are no important local elections in England and therefore no means by which accountability can be exercised.

- Political acceptability: clearly cash limits will change the relationship between central government and local authorities; and, equally, if the Government were to head the package with tough cash limits, it could be difficult to get it through the House.

- Might it be better to present the package as:
 - (i) extra grant;
 - (ii) extra transitional relief (both designed to reduce the burden on the local taxpayer); plus
 - (iii) the introduction of limits to provide an upper bound so that local authorities cannot fritter away the extra money that is intended to keep down community charges?

- Legislation: the Solicitor General will advise on the practical difficulties of different legislative packages. The Lord President's conclusion is that legislation can be managed in time for 1991-92 without unacceptable damage to the rest of the legislative programme. But the DoE letter at Flag F indicates that tougher capping powers will also need new legislation.

- Judicial review: it will also be necessary to get advice on whether the cash limits approach and referendum would be proof against successful judicial review.

The next steps

After tomorrow's meeting, the intention is to broaden the discussion to include the service Ministers at E(LG) next Thursday. That would be the appropriate forum for further discussion on the amounts of AEF.

The main objective tomorrow must be to try and reach some common understanding. But, even if the political advice from the Chief Whip, combined with the legal advice from the Attorney General, suggests that the cash limits approach is very difficult, you may judge it sensible to keep the cash limits approach in play.

For, if there is support for not pursuing cash limits, then opponents must come forward with a convincing alternative. The

dangers in a conventional grant settlement in present circumstances are very clear. Whatever good intentions might be expressed now, even a tough grant settlement could be progressively undermined. Many local authorities (and the majority of the big spenders are Labour controlled) could again spend up and set high community charges. There are no important elections to ensure accountability and responsible behaviour. They would put pressure (backed by DoE) on the Government to inject more grant. That would be very damaging to the Exchequer; to public spending; and still not bring about lower community charges.

BHP

BARRY POTTER

16 May 1990