MEETING RECORD
cc MASTER

9-1 (a-e) File GAM
cc PU

10 DOWNING STREET

LONDON SW1A 2AA

From the Private Secretary

21 May 1990

Dear Philip,

THE COMMUNITY CHARGE

The Prime Minister held a meeting at 11.30 am on Thursday 17 May 1990 to discuss the community charge. Those present were the Lord President of the Council, the Chancellor of the Exchequer, the Chancellor of the Duchy of Lancaster, the Secretaries of State for Scotland, Energy, the Environment and Wales, the Chief Secretary, Treasury, the Solicitor General, the Chief Whip, the Minister for Local Government, Sir Robin Butler, Richard Wilson, Peter Owen, Muir Russell and Andrew Wells (Cabinet Office), and John Mills (Policy Unit).

<u>I would be grateful if you would ensure that this letter is not copied without your authority and is seen only by those with a strict need to know</u>.

The meeting considered a Note by the Cabinet Office, attached to Richard Wilson's minute to me dated 15 May, and minutes to the Prime Minister from the Chancellor of the Exchequer dated 15 May and your Secretary of State dated 16 May.

Your Secretary of State said that the work which had been done by officials showed that it was feasible, technically and administratively, to operate a system of limits on the income of those local authorities with the largest budgets. The question for Ministers was whether it would be acceptable in political and legislative terms. The group would want to take the Solicitor General's advice on the prospects for drafting legislation which would be proof against Judicial Review. But it was clear that any such Bill would be complex and controversial. Opponents of the community charge system would seek to introduce unwelcome and expensive amendments during its passage through Parliament. A decision to legislate was therefore certain to prolong the controversy over the community charge well into the autumn and winter, at substantial political cost to the Government. This might be justified if a system of income limits could secure substantial savings in local authority expenditure. But experience in previous years, and advice from the Government Departments which were responsible for the main services provided by local authorities, all suggested that the savings were unlikely to be

more than £0.5-1 billion, equivalent to at most £28 off the average community charge. Even at that level, the savings were likely to come from controversial cuts in services rather than improvements in efficiency.

For these reasons, his view was that the Government should not attempt such legislation for 1991-92, but should rely on the enhanced accountability under the community charge to restrain local authority spending. The results of the recent local government election gave some encouragement to the belief that accountability could be effective. The Government needed to build on this by putting in place a grant settlement which would allow responsible authorities to set community charges in 1991-92 no higher than the 1990-91 level, and in many cases lower. There would then be a good chance that irresponsible authorities would take the blame for their high community charges. And those who set excessive budgets could of course be capped under the existing selective limitation powers.

He believed that such action, coupled with further measures to tackle the perceived unfairness of the community charge, would be the best way forward for 1991-92. The Government would then be able to consider at more leisure whether more radical changes in the financial framework for local authorities, for example to a system of assigned revenues, were necessary for later years.

In discussion the following main points were made:

a. Schemes to control local authority expenditure, such as a tighter capping regime or the system of income limits set out in the Cabinet Office Note, although feasible in technical and administrative terms, would give rise to substantial legal problems. It would be very difficult to draft legislation for such a scheme which could not be undermined through Judicial Review. In particular, any scheme which relied on standard spending assessments (SSAs) was likely to be subject to challenge in the courts. Representatives of the Government had said in previous affidavits that SSAs were accurate only to within about 10 per cent. There was therefore a substantial risk that any scheme which attempted to set limits on expenditure at less than around 12.5 per cent above SSA would be overturned in the courts. This might be avoided if the SSAs and income limits could be incorporated in primary legislation, but that was probably impractical for timing reasons.

b. Nevertheless there were strong arguments in favour of introducing a comprehensive scheme of income limits of the sort set out in the Cabinet Office Note. This would provide a necessary measure of control over the expenditure of local authorities, many of whom faced no elections for a number of years, and therefore little incentive to set low community charges. It was difficult to see how the Government could make extra grant available to local authorities in 1991-92 unless there was a system

of control which would ensure that it went into lower community charge rather than higher spending. In this context, the preliminary legal advice which the group had received gave substantial cause for concern. It seemed to be suggested that the Government could not legislate to control expenditure effectively, despite the fact that local authorities were statutory bodies whose powers derived entirely from Parliament. If true, this was a very serious conclusion, suggesting that the Government could not effectively fulfil their responsibility to control public expenditure and manage the economy.

c. Irrespective of the legal difficulties, it was clear that emergency legislation in either the current or the next Session would itself give rise to substantial difficulties. The opponents of the community charge would seek to introduce many unwelcome and expensive amendments, for example to provide for a banded community charge or exemption for non-working wives. This would re-open controversy among the Government's supporters, and it would be very difficult to get the legislation through by the end of February as would be necessary if the scheme were to operate for 1991-92. The only possible way to avoid such problems would be to produce a Bill so narrowly drawn that undesirable amendments were outside its scope.

d. There was a case for considering what could be achieved under a reasonable conventional grant settlement for 1991-92. It had been suggested that local authority expenditure might increase by 10 per cent in cash over the present year's budget. But this might be an over-estimate. It seemed likely that authorities had over-budgeted in 1990-91, and that expenditure would be a good deal lower at outturn, leaving substantial sums to be added to balances. That would suggest a lower baseline for 1991-92 and the availability of substantial reserves which could be used to cut the level of the community charge. If the Government used all their influence with responsible authorities to ensure that they exercise restraint, coupled with tough action using the existing capping powers against irresponsible authorities, there was a good chance of a satisfactory outcome.

e. It would also be worth considering what more could be achieved using existing powers, or with minor legislative changes falling short of income limitation. Options included a relaxation of the restrictions on the existing capping powers, the introduction of election by thirds for all local authorities, the introduction of separate community charge bills for different tiers of authorities, an extension of the citizen's right to seek Judicial Review of excessive expenditure by local authorities, and an extension of the Audit Commission's role in conducting value for money audits. Another attractive option would be to freeze all new burdens on local authorities for 1991-92: that would remove one of the main factors which undermined the operation of accountability under the community charge.

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f. There was also a case for a considered package of measures to tackle the perceived unfairness of the community charge. There were strong arguments for extending the period of the transitional relief scheme, reducing the rate at which relief was withdrawn and providing extra relief to cover increased charges arising from withdrawal of the area safety net and the low rateable value grant. There might also be a case for extending relief to the disabled, and perhaps to all young people under 21 years of age. Another option would be to increase the generosity of the scheme, for example by cutting the threshold for relief. But it would be wrong to change the scheme in any way which validated actual spending by local authorities, since that would detract from accountability.

The Prime Minister, summing up the discussion, said that the group were not yet in a position to reach decisions on the community charge, and further work would be needed. There were strong arguments in favour of introducing a scheme of income limits for 1991-92. This might be the only effective way to restrain the expenditure of local authorities who had no elections for several years, and ensure that any additional grant which the Government made available went into reduced community charges rather than increased expenditure. If the Government did not act now, they might face worse problems in the spring of 1991 when the second round of community charges was set. Even if the group agreed not to proceed for the forthcoming year, a scheme of income limits could not be ruled out for subsequent years.

In this context, the preliminary legal advice which the group had received was disturbing. It seemed to be suggested that no practical scheme of income limits could be devised which would be proof against Judicial Review. If true, this conclusion had very serious implications. It suggested that Parliament could not fulfil its duty to protect the citizen from unreasonable levels of taxation. It also cast doubt on the Government's ability to control public expenditure and manage the economy. It was essential to search for a way in which these duties and responsibilities could be discharged. The Solicitor General should therefore provide urgent and considered advice to the group about how the difficulties could be overcome. In particular, it would be important to devise a scheme which was proof against successful challenges in the courts. It would also be important to draft legislation with as limited a scope as possible, to restrict the extent to which unwelcome amendments could be proposed by the opponents of the community charge.

An alternative might be to proceed with a conventional settlement, at least for 1991-92. It would be important to operate the community charge capping powers as toughly as possible. The Solicitor General should provide further advice on how far this would be possible under the existing legislation, and what more might be achieved if it proved possible to enact a short Bill before 1991-92. Officials should also carry out further work on other possibilities for

encouraging greater restraint in local authority expenditure. The options included the introduction of election by thirds for all authorities, a move to require separate Bills from each tier of authorities in each area, a freeze on some or all of the new burdens on local authorities in 1991-92, and the introduction of new powers to extend the role of the Audit Commission in carrying out value for money audits of local authorities. It had also been suggested that there might be advantage in a minatory Green Paper, setting out the sort of options for controlling local authority expenditure which the Government might have to introduce if authorities did not exercise more restraint in their expenditure: for instance referenda, annual elections and income limits. This option should also be considered.

Officials should also carry out further work on the various options for tackling the perceived unfairness of the community charge. The group had agreed that there was a good case for extending the period of the transitional relief scheme, reducing the rate at which relief was withdrawn and providing relief to cover increased charges arising from withdrawal of the area safety net and the low rateable value grant. Further consideration was needed of other options, including the extension of the scheme to disabled people and perhaps to all young people under 21 years of age. But it would not be right to extend the scheme in any way which validated local authorities' actual expenditure decisions, since that would detract from accountability. Further work was also needed on possible changes to the operation of the standard community charge and to the treatment of people living in mixed hereditaments and paying both the Unified Business Rate and the personal community charge at one address.

The further work which had been commissioned should be co-ordinated by the Cabinet Office and brought forward to a further meeting of the group in early June.

I am copying this letter to the Private Secretaries to the Ministers who attended, and to the others who were present.

Yours ever,

Barry

BARRY H POTTER

Phillip Ward Esq
Department of the Environment

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Prime Minister 2

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Parliamentary

BRIEFING FOR NO 10: GRANTS, COMMUNITY CHARGE AND BUSINESS RATES

1. The Prime Minister's office asked for further information concerning the proportion of local authority revenue met by central government grant, community charges and business rates, following Mrs Wells minute of 14 May 1990.

2. The percentages supplied previously were as follows, for GB.

1990/91	%
RSG and specific grants in AEF	39
Community charges	33
Business rates	28
	100

The percentages now requested are as follows (also for GB).

1990/91	%	
RSG and specific grants in AEF, community charge benefit and transitional relief grant	44	Government
Community charges net of community charge benefit and transitional relief grant	28	Community Charge
Business rates	28	Business.
	100	

A.H.BROWN
FLAS1
18 May 1990

cc Mrs Wells