

PRIME MINISTER

THE COMMUNITY CHARGE

I attach the further papers for tomorrow's Ministerial discussion on the community charge.

The first (Flag A) is a joint DoE/Treasury report on the negotiations on TSS (the Government's assessment of LA's standard spending); AEF (grant); the resultant CCSS (community charge at this standing spending) and estimates of actual spending and community charges.

The second (Flag B) illustrates LA spending if the Solicitor General's approach is strictly applied.

There have been two main developments.

- (i) Our understanding is that the Solicitor-General will stick to his advice (pending the outcome of the Appeal Court hearing).
- (ii) Mr. Patten will accept the more extensive capping approach put forward by the Solicitor-General - providing that colleagues do not demand an 'over-rigorous' application.

The objective tomorrow will be to secure and confirm Mr. Patten's agreement to the Solicitor-General's approach. And Mr. Patten must satisfy three conditions before you and Treasury Ministers can go forward with that approach:

First, he must agree to announce what the capping criteria will be next month: (these have to be expressed in terms of 'minded to' in order not to fetter his discretion).

Second, he must indicate his willingness to cap all authorities which break the criteria set down next month.

Third, he must agree that, in the event of successful legal challenge by local authorities to this extensive use of existing capping powers, he will take the necessary legislation to restore the status quo ante.

Mr. Patten is not yet aware that you are likely to set these conditions: but providing the numbers are reasonable, he should be willing to meet them.

Grant and expenditure

The paper at Flag A sets out DoE and Treasury positions on the basis of the previous use of capping powers, not the more extensive use envisaged under the Solicitor-General's approach.

Mr. Patten's bid position for 1991-92 is as follows:

TSS = £39.5 billion (+ 20 per cent on 1990-91)
AEF = + £2.5 billion
CCSS = £375.

On this basis, Mr. Patten believes that actual spending would rise by around 10.5 per cent to £40.5 billion. Actual outturn community charges would average around £393.

The Chief Secretary's position is as follows:

TSS = £37.5 - £38.5 (+16 per cent on 1990-91)
AEF = + £1.5 billion
CCSS = £347.

On this basis, the Treasury believe spending would rise by 9 per cent to £39 - £39.5 billion, and actual community charges would be around £370. However, this seems an optimistic assessment of spending, if no further capping powers were used: it is a negotiating assumption to justify a lower addition to AEF.

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Much more important, however, is strict pursuance of the approach set out in the Solicitor-General's minute. This is set out in paper B: total actual spending in 1991-92 on this basis would be restricted to £38.5 billion - an increase of 5 per cent on 1990-91 budgets.

Assessment

My understanding is that Treasury Ministers are willing to give more on AEF than the Chief Secretary's opening offer. And, Mr. Patten will move lower than £2.5 billion providing the settlement can be defended as being achievable.

I have discussed with Richard Wilson how far the two sides might be brought together. Our view is that the strict application of the Solicitor-General's approach as in paper B would go too far because:

- it would restrict the average increase in local authority spending to less than the rise in their costs.
- it would not be widely achieved and therefore would put a great burden on actual capping; and most crucially
- it might not be defensible, i.e. the courts might well judge against the Government on Wednesbury reasonable grounds.

But a less ambitious application of the Solicitor-General's approach might be acceptable as follows:

TSS = £38 - 38.5 billion
AEF = + £2.0 - 2.1 billion
CCSS = £350

The Government would set capping criteria on different categories of LA: those spending up to SSA in 1990-91; those spending between SSA and SSA + 5 per cent; and those above SSA + 5 per cent - such as would lead to local authority

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spending of around £39 - 39.5 billion next year. This represents just under an 8 per cent increase in spending year on year. This is defensible as an overall standstill on local authority spending; and it should be achievable by the great bulk of authorities, in particular Conservative-controlled Shires and Districts.

Average actual community charges would be around £385. Many authorities, particularly those which contribute to the safety net, should be able to achieve cash reductions in community charges.

Conclusion

If Mr. Patten will accept the Solicitor-General's approach and meet the conditions set out above, a deal at around this level would be defensible for him, achievable for local authorities and - just - affordable for the Treasury.

As noted in the Cabinet Office minute, decisions are also needed on:

- i. the package of other measures on transitional relief, etc;
- ii. whether to delay the transfer of community care.

(I agree with Mr Wilson's advice on a package of around £100 million on i. and confirming the delay on ii.)

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BARRY POTTER

25 June 1990

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