



CONFIDENTIAL

PRIME MINISTER

CHARGE CAPPING: LAMBETH

As you may know, the Court of Appeal dismissed on 24 September my appeal against the judgement of the Divisional Court in the Lambeth case. The case centred on the technical issue of whether, under the statute, Lambeth, in setting its new charge following capping, had to use the same estimate of non-collection (ie the number of people liable to pay who did not in the event do so) as it had used when it set its original charge. When Lambeth set its new charge in August it used a different figure, the effect of which was to offset some of the charge reduction resulting from capping. We argued that the Council was obliged to use the same figure so that the budget reduction following capping fed through in full to chargepayers.

Both the Divisional Court and the Court of Appeal have upheld Lambeth's interpretation of the statute. The latter also refused to grant our application to leave to apply to the House of Lords. I shall need to study the transcript of the Appeal Court judgement when it is available (probably next week) to decide whether to petition the House of Lords direct. I shall also seek the Solicitor General's advice on this. In the meantime, I am also looking on a contingent basis at what other options may be available for the future to ensure that authorities cannot vary their estimates of non-collection in setting substitute charges after capping.

We are taking the public line that we will need to consider the transcript of the judgement before determining our next steps.

I shall minute you again with my proposals on how to proceed once I have been able to study the Appeal Court judgement.

Prime Minister

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A seeking reply. One option
DOE will need to consider is
minor amending legislation.

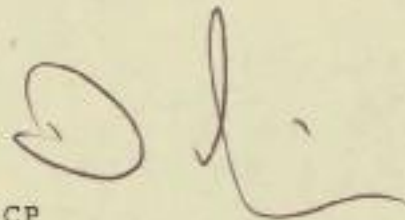
RHP

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I am copying this minute to other members of E(LG), to Nick Lyell and to Sir Robin Butler.

PP *CP* 

25 September 1990

(Approved by the Secretary of State
and Signed in his Absence)