



POLICY IN CONFIDENCE

PRIME MINISTER

**CHARGE CAPPING: LAMBETH**

*File with 30.*  
In my minute of ~~25~~ September, following the judgment of the Court of Appeal in the Lambeth case, I said that I would minute you again with my proposals on how to proceed once I had received and studied the transcript of the judgment.

The transcript is now available. I have studied it carefully and taken Counsel's advice on whether to petition the House of Lords directly for leave to appeal. I have also consulted Nick Lyell. It is clear that the prospects of success in the Lords are so remote that it is not worth seeking to continue the litigation. Indeed, there is no guarantee that the Lords would even take the appeal. Accordingly, I do not propose to seek to continue the litigation on Lambeth's substitute charge for 1990/91.

In my view however it remains essential that for the future budget reductions as a result of capping should feed through in full to chargepayers. Doing nothing is not an option. It would leave open the possibility that a capped authority could change its estimate of non-collection when resetting its charge and prevent some or all of the benefit of capping. Indeed, a perverse authority could even set a substitute charge after capping higher than its original charge for the year. The only means by which the objective of guaranteeing that authorities pass on the full benefits of capping to their chargepayers can be achieved is legislation.

I propose a short Bill prescribing exactly how a charging authority should calculate substitute charges following the capping of its budget and/or that of an authority precepting on it. The process would be a mechanical one and authorities would have no discretion in how they reset their charges. There would



POLICY IN CONFIDENCE

not therefore be any scope for them to do other than reflect the budget reductions secured by capping fully in their new charges.

Because it would deal with capping the Bill would be controversial and, because it would need to be in force by 1 April 1991, it would need to be introduced early in the new Session. Like the current statutory provisions the Bill would extend to Wales. I have consulted David Hunt and he is content. I have considered whether this proposal could be added to the Bill we have already agreed on for the rating of Caravans. However, I am advised that would be likely to widen the scope of the Bills well beyond their immediate subject matter. I do not want to facilitate a wide ranging debate of all aspects of the community charge next year. For that reason I am also reluctant to seek to correct the weakness in the legislation relating to school leavers at this stage.

If you and E(LG) colleagues are content with the proposal that we should legislate, I should like to announce, on 23 October which is the deadline for lodging a petition, that I have decided not to proceed with the litigation and that I intend to seek legislation to guarantee that, in future, chargepayers benefit fully from the budget reductions secured by charge capping. I will also need Geoffrey Howe's authority for the drafting of a short Bill and for a place in the legislative programme. I would be grateful for responses by close of play on 19 October.

I am copying this minute to the Lord President, the other members of E(LG) and QL, the Solicitor General, Sir Robin Butler and Sir Henry de Waal.

  
CP

16 October 1990

LOCAL ADVT: Kates  
P10

