



DEPARTMENT OF HEALTH AND SOCIAL SECURITY
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From the Minister of State for Social Security and the Disabled

The Rt Hon Nicholas Ridley AMICE MP
Secretary of State for the Environment
2 Marsham Street
London SW1P 3EB

CH/EXCHEQUER	
REC.	50 OCT 1988
ACTION	CST
COPIES TO	

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Dear Nicholas,

COMMUNITY CHARGE: DEDUCTIONS FROM BENEFIT

Thank you for your letter of 9 September responding to mine of 9 August about the outstanding issues on deductions from Income Support to pay arrears of community charges. You will have seen the replies from John Major and Malcolm Rifkind on the subject.

On the question of the making of regulations for deductions, I note your arguments but I still feel strongly that we should make a single set of regulations which deal with the mechanics of deductions from benefit for arrears of community charge. They would cover Scotland as well as England and Wales since we operate a single system for Great Britain.

The issue of deductions from benefit is very different from the other methods of enforcement. Those methods are entirely a matter for the local authority to determine and act upon. However, we have already established that once a local authority has asked for deductions to be made from benefit, their part in the process ends and I think that the enforcement regulations should, logically, cease at that point. They will have no locus in deciding whether deduction can be made and if so how and, in my view, this justifies the regulations standing alone. There is no reason for them to be included in regulations which give powers to local authorities.

I think we are all agreed that deductions from benefit is a sensitive issue and whilst I appreciate your desire to contain any debate, I remain convinced that it is best if we handle the deductions regulations.

In my earlier letter I also raised the question of the regulations concerning disclosures from social security records. As I mentioned then, I think it is more appropriate for us to make them.

In view of the support which John Major and Malcolm Rifkind have given in their replies, I hope that you will reconsider the matter and that we can now resolve this question without the need to discuss it in Cabinet Committee.

Turning to the question of priority, by keeping these deductions separate from the usual maximum, we should avoid the need to apply an order of priority but, there will be some instances where the amount of Income Support is at such a low level that we cannot avoid the problem.

As I understood the debates, imprisonment is only an option when a person has the means but wilfully refuses to pay the charge. I think that where there are arrears of rent, gas, electricity and water charges or any combination of these, a court is unlikely to regard non-payment as a wilful refusal. However, even if they did, I think it is arguable whether imprisonment for failure to pay on the one hand or eviction for non-payment of rent, discontinuation of gas or electricity or having the water supply cut off on the other, would have more serious consequences for the family.

Whilst I understand your need to ensure that arrears are collected, I hope you will understand that there are other priorities which we have to consider in relation to a family as a whole and I think we must reserve our position in that respect.

With regard to current liability problems, the deductions for community charge will, in a straightforward case, include current liabilities because the whole year will fall due when only one or two payments have been missed. The comparison you make with other deductions where we deal separately with current liabilities operates in a different context. Taking rent as an example, the arrears will be only for past periods and the on-going benefit will include an amount for rent which can simply be diverted to the landlord.

In the case of community charge, not only will the amount deducted weekly be in excess of what is included in Income Support but will cover future payments as well as past arrears. Once we make deductions for arrears there is no separate element on which we could draw to direct further monies to meet community charge liabilities. I think therefore that we must confine any deductions to £1.70 a week.

I am pleased that you intend to look at the costs of liability orders. The uncertainty about the extent to which such costs would inflate the liability order for what will, on average, be about £50 for a whole year, was at the root of my concern.

I note that Malcolm Rifkind suggested that we might use a separate figure in the case of couples, but deductions are already costly in manpower and we must keep them as simple as possible, particularly as we move towards more computerisation. I hope that you and Malcolm will accept that adding a different level of deduction especially for community charge is not administratively feasible.

FOI.

Finally, I am content for this Department to bid for the running costs.

I am copying this to John Major, Malcolm Rifkind, other members of E(LF) and to Sir Robin Butler.

Yours truly,

Nick.

NICHOLAS SCOTT



BF 2116

MP

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✓20/10 19 October 1988

Dear Nick

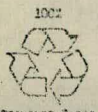
COMMUNITY CHARGE: DEDUCTIONS FROM BENEFIT

Thank you for your letter of 2 October about deductions from income support to pay off arrears of community charge. I have also seen the letters from John Major and Malcolm Rifkind on this subject.

I am prepared to accept that the regulations on deductions and disclosure should be made by DSS. There is, however, a very tight schedule for the implementation of the community charge, and I hope that your Department will be able to make the regulations, which form an integral part of the information and enforcement provisions, on the same timetable as the main regulations dealing with those subjects. We intend to start formal consultation on drafts of those regulations this month.

So far as deductions from income support are concerned, the issue of priority is central, since people on benefit who are in arrears with their community charge are likely to be in difficulties with other debts. I continue to believe that community charge arrears should have a high priority, since the ultimate penalty is imprisonment. It is not true, as you state in your letter, that the courts may imprison a person only for wilful refusal to pay. They may also do so if they are of the opinion that the failure to pay is due to culpable neglect. It is quite possible that the courts will decide that someone with multiple debt problems has failed to pay the community charge because of culpable neglect. I think you need to think again on this point.

You question the need to allow deductions to be made in respect of current liabilities on the grounds that, since the whole of the charge for a financial year will become due on the missing of an instalment, the payment of arrears will automatically take

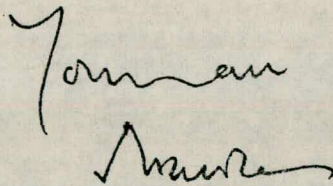


care of current liabilities. Again, this is a misunderstanding of the community charge system. There will certainly be some cases where the deductions have not cleared the debt by the end of a financial year when instalments for the next year's charge became due. I think we do need a provision which will allow extra deductions in respect of current liabilities, if there is sufficient benefit, in addition to the existing deductions.

I agree with Malcolm that there should be a special rate for couples. I do not understand your point about manpower and computerisation. I should have thought that computers would make it easier to deal with this kind of case. I understand that it is possible for fuel debts to be recovered at a maximum rate of 10% of the personal allowance for a single person 25 or over (that is twice the amount we are currently proposing for the community charge). If this particular kind of debt can be separately identified and given special treatment the same ought to be possible in the case of couples. The community charge does, of course, resemble fuel charges, in that it is a charge for services provided, not a housing cost.

While, therefore, I am content that you should begin to draft the regulations with a view to making them separately, there remain a number of points to be resolved. Your officials will need to consult mine to make sure that what you are proposing fits in with other aspects of the community charge system.

I am sending a copy of this letter to John Major, Malcolm Rifkind, other members of E(LF) and to Sir Robin Butler.

A handwritten signature in dark ink, appearing to read 'Nicholas Ridley', written in a cursive style.

NICHOLAS RIDLEY



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From the Minister of State for Social Security and the Disabled

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BF MP

08 NOV 1988

The Rt Hon Nicholas Ridley MP
Secretary of State for the Environment
2 Marsham Street
LONDON
SW1P 3EB

Dear Michael,

COMMUNITY CHARGE: DEDUCTIONS FROM BENEFIT

Thank you for your letter of 19 October in reply to mine of 2 October.

Whilst I am pleased that you have accepted that this Department should make the necessary regulations, I am disappointed that we are still clearly far from reaching agreement on the issues of priority and the level of deduction.

As you will doubtless recall, we argued in Cabinet Committee that adding a further deduction to those which we already make, would create tensions in the priorities which we have established after careful consideration and strongly believe ought to be maintained for the sake of the families concerned. Extending the total amount deductible for arrears by a further sum and reserving it for community charge arrears will undoubtedly solve the problem in most cases. However, as I have said previously, where we are already making maximum deductions, we cannot stop payment of rent arrears, fuel or water, in order to give preference to community charge because of the consequences that would have for the family. Similarly, if a family face eviction or disconnection of supply, we must retain the right where necessary to take steps to prevent that happening. It will not happen frequently but assurances will be sought and we must be in a position to give them.

I note what you say about 'culpable neglect' but I was largely relying on a reply which Michael Howard gave to Simon Hughes on this point during the debate on 20 April last [Or Vol 131 Col 838/9]. That reply stated quite categorically that "imprisonment will be available only where there is a wilful refusal to pay by someone who has the means with which to pay".

E.R.

In any event, I find it hard to accept that a court would imprison a person with debts for housing, fuel etc deducted from his benefit leaving no scope for further deduction. His alternative seems to be to pay the community charge arrears but face eviction or discontinuation of fuel and/or water. I am afraid therefore that my view is unchanged that we must retain control of priorities in the relatively few cases where it is likely to arise.

On the question of liability for a subsequent year in which arrears are still being paid on the earlier year, we have always recognised that this would be a problem; it was mentioned in John Moore's letter of 29 February. The justification for making deductions from benefit is that an amount has been included in the income support to meet the minimum liability. The deduction for arrears will manifestly be more than has been put in, which we hope will in itself be an incentive not to get into arrears. However, you are seeking an additional deduction without a liability order, to meet an ensuing year's liability.

It is important to recognise that income support is geared to meeting day to day living expenses and that scope for making deductions whilst allowing sufficient to live on is therefore limited. If the money is available, presumably the individual will be anxious to pay and avoid a further liability order. If he does not do so, presumably the charging authority can seek a further order either to follow the first or to include any outstanding balance from the first.

As I have indicated, we have recognised the problem from the outset but we would not wish to have extra deductions outside the scope of a liability order, indeed there is no power in legislation to do so since Schedule 4 paragraph 6 of the LGFA is framed in terms of a liability order preceding the deduction in accordance with the Cabinet Committee decision. We should not wish to go beyond that.

Turning to the question of amounts, you mention our current position on fuel debts. Effectively, what we do is to allocate £1.70 each to gas and electricity but where there are arrears of only one - usually because only one fuel is used, the amount can be £3.40 for the single fuel debt. I do not think that this conflicts with anything I said in my letter. It is not special treatment and the basic unit is still £1.70 or a multiple thereof.

Even if we were to consider tailoring the amounts to an individual and a couple, this would mean a break away from the £1.70 since we could not contemplate a basic amount as high as £3.40 for a couple. If we start to tailor the deductions closer to the amounts which will be included in income support it will highlight those amounts in a way which we have been anxious to avoid. I thought that we had agreed that £1.70 would apply in all cases since it is a rate we already use and can be justified in the case of a single person because it represents arrears. I can only repeat that any departure from our standard deduction for arrears payable to third parties would create considerable problems not least in our negotiations with the fuel boards, and I am convinced that we ought to stick to the standard £1.70 for community charge arrears.

E.R.

Finally, whilst officials here are poised to instruct solicitors to draft the regulations, until we have reached agreement on these matters there is little they can do to make progress. I hope therefore that you will consider the above points again in the hope that we can reach a final agreement and proceed to draft the regulations.

I am sending a copy of this letter to John Major, Malcolm Rifkind, other members of E(LF) and to Sir Robin Butler.

Yours truly,

Nick .

NICHOLAS SCOTT