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by to Thom 18/11



2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

CH/EXCHEQUER	
REG.	17 NOV 1988 ✓ 17/11
ADVIS	CST
ISSUED TO	

My ref:
Your ref:

[Handwritten signatures and initials]

The Rt Hon John Major MP
Chief Secretary
HM Treasury
Parliament Street
LONDON
SW1P 3AG

17 November 1988

Dear John

LOCAL AUTHORITY FEES AND CHARGES

Thank you for your letter of 14 November. I have also seen Richard Luce's letter to you of 10 November.

There is a grave risk of exaggerating the possible benefits from a general power to charge. Apart from the proposed enlargement of the power to charge for library services - which Richard describes in his letter as "modestly useful" - the proposed charges we have on the stocks are, almost without exception, not for local authority services at all, but for the granting of licences, certificates and approvals. The only candidates so far are set out in the attached list (previously circulated in the official correspondence to which you referred). The only major item on this list - charging for extra curricular school activities - was introduced separately in the Education Reform Act. When we discussed this in E(LF) on 26 February 1987 we agreed that all the major candidates were non-starters, and I doubt if any colleague now wants to resurrect them.

The best estimate of the total income from all of the proposed charges is only £10-£20 million, and we cannot of course expect all authorities to impose charges even if we give them the power to do so.

If we introduce a general power, we will, as I said in my letter of 9 November, be accused of contemplating charges for practically everything, including basic services - from tolls for public roads to charges for basic social services. We will face amendment after amendment seeking to restrict the power in each and every local authority service. I simply do not believe it is worth provoking a major political row in order to introduce a power which, on current plans, has so little practical value.

If colleagues wish to pursue some or all of the minor charges on the list, then in my view it would be better to introduce them in a schedule to the Local Government and Housing Bill, provided that the provisions can be drafted in time, rather than by means



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of a general power. I would be happy to accept any additions to the list which colleagues feel to be runners. In that way we will make our intentions entirely clear and avoid the damaging - and unnecessary - accusation that we are concealing an intention to introduce major new charges by the back door.

/ Copies of this letter go to the Prime Minister, members of E(LF), Richard Luce, the Chief Whip and Sir Robin Butler.

*Yours
Nicholas*

NICHOLAS RIDLEY

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Specific Powers to Charge - Extensions

(a) MAFF

- (i) Inspection of imported meat and meat products.

(b) Environment

- (i) Consent for the operation of an offensive trade
- (ii) Approval to height of a chimney serving a non-combustion process
- (iii) Approval to height of a chimney serving a combustion process
- (iv) Approval to grit and dust arrestment plant
- (v) Exemption of furnaces from requirement to fit grit and dust arrestment plant
- (vi) Waste disposal site licences
- (vii) Caravan site licences
- (viii) Public path orders
- (ix) Certificate of fitness for human habitation
- (x) Copy of register of common lodging houses

(c) DHSS

- (i) Registration of residential care homes
- (ii) Client access to non-computerised personal information

(d) OPCS

- (i) Facilities at weddings

(e) Home Office

- (i) Public entertainment licences (private members' clubs)
- (ii) Licensing of sex shops, sex cinemas and sex encounter establishments
- (iii) Cinema licences
- (iv) Theatre Licences
- (v) Fire certificates

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(f) DTI

- (i) Certification of weighbridge keepers
- (ii) Reference tests on pre-packaged goods

(g) Transport

- (i) Scaffolding licences and skip permits
- (ii) Issuing certificate that a way property dedicated by a person is a highway maintainable at public expense
- (iii) Temporary traffic orders made at the request of another body

(h) Education

- (i) Extra curricular school activities

(i) Scotland

- (i) Admission to LA museums and galleries
- (ii) Registration and re-registration of certain residential and other establishments.

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MP

FROM: BARRY H POTTER
DATE: 21 November 1988

CHIEF SECRETARY

cc PS/Chancellor
Sir P Middleton
Mr Anson
Mr Phillips
Mr Edwards
Mrs Case
Mr Turnbull
Mr Laite
Mr Call**LOCAL AUTHORITY FEES AND CHARGES**

In his letter of 17 November, the Environment Secretary again argues that the proposed general power to charge for certain local authority services should be dropped from the Local Government and Housing Bill. In its place however, he now offers to introduce a schedule of powers (as set out in the attachment to his letter) to charge for certain specific and minor items (mostly licences and certificates).

2. On balance I advise that you do not accept the new proposal but rather continue to press for inclusion of the general power

Background

3. The background was covered in my earlier submission of 11 November. Since you wrote to Mr Ridley on 14 November there has been a helpful letter from Mr Walker (17 November) supporting your position.

4. I understand that Mr Ridley's latest letter again predominantly reflects the views of Mr Gummer. His reply ignores most of the substantive points in your letter of 14 November - specifically the earlier firm agreement to introduce a general enabling power and the fact that the powers are ready. (There is no mention in his latest letter of the general powers not being drafted in time.)

5. Mr Ridley's letter rests on two points:-

(i) the earlier argument that it will be awkward to get the legislation through Parliament; and

(ii) that the general power will be of little practical value since use of the power is likely to be limited to minor certificates and licences generating only a maximum of £20 million annual revenue.

Instead he proposes that these minor charges should be included as a schedule in primary legislation in the Local Government and Housing Bill.

Assessment

6. On the face of it the proposal to draw up a schedule of charges for specific items identified in an earlier inter-departmental trawl looks tempting. DOE officials however confirm that this legislation would need to be drafted quickly now in order to be included in the Bill. Departments will not have made the necessary preparations (because they were expecting to draft secondary legislation on a more relaxed timetable, not primary legislation now). Both we and DOE officials suspect that the schedule in the letter might not be drafted in full in time - even if all the departmental Ministers confirmed they wished to proceed. In practice the Government would end up with a rather meek measure compromising a few small probably non-controversial proposals for fees for certain licences and certificates.

7. This is a long way from the Government's original intention as approved by E(LF) confirmed six months ago by the Prime Minister and announced in Parliament. That was to draft a general power to enable local authorities to set fees or charges where they wished. For the reasons set out in the earlier submission, I believe you should urge Mr Ridley to stick to that decision. No matter how limited the initial schedule to be introduced now, (it reflects items mainly identified and discussed before the last

Election) the Government may well wish to set fees and charges more widely in future. After 1990 transfers of functions, new policies in areas like community care and housing and the new local authorities' financial regime will all involve the "enabling not providing" role which is a consistent DOE theme. That will create a greater need need to licence and approve activities than at present. It is desirable to get a general power on the statute book now.

8. I have explored the scope for compromise with DOE officials to little effect. For them (and us at official level) the sticking point has been the general rather than specific power. I suggest, however, you gently remind Mr Ridley that the presentational problems raised now were considered earlier and that a solution (specifying in primary legislation where the powers could not be used) was identified. Also it might help if use of the enabling power were to require Affirmative Resolution in Parliament of the secondary legislation identifying the particular services to be charged.

9. I attach a draft letter on this basis for you to send to Mr Ridley.

Barry H. Potter

BARRY H POTTER

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DRAFT LETTER TO SECRETARY OF STATE FOR THE ENVIRONMENT

LOCAL AUTHORITY FEES AND CHARGES

Many thanks for your letter of 17 November. I have also seen Peter Walker's letter in support of mine of 14 November.

I have considered carefully your revised proposal to introduce a power to set charges for the specific items identified in the attachment to your letter. But I am not convinced that this would be the right way forward.

First I wonder whether, starting at this late stage, it would prove possible to draft the necessary schedule in time: it would involve a wide range of Departments in preparing for primary legislation now, rather than secondary legislation on the more relaxed timetable that had previously been envisaged. In practice I suspect several of the candidates in the list might have to be dropped.

Second, such a proposal - especially if we lose some of the candidates - falls a long way short of the general enabling power which was discussed and approved in E(LF) last year and ^{confirmed} ~~again~~ only six months ago. It would be a meek measure rather than the general power which Christopher Chope confirmed to Parliament that we would introduce "at the earliest legislative opportunity".

My preference therefore remains that we should introduce the general power, thus setting the legislative basis for the specific items you have identified above and any others we might wish to introduce in the future. We ought to bear in mind that changes in LA functions in prospect in areas like housing, community care etc and the new post 1990 financial regime (including greater contracting out) ought to lead to a more enabling and overseeing role for local authorities - for which they can and in most cases should charge.

I do accept that there could be Parliamentary difficulties in presenting the new power. But the solution lies in making our intentions clear and perhaps showing a willingness to discuss each and every application of the powers in future. Thus in the primary legislation it should be possible to specify general areas where the powers would not be used (this was our agreed intention earlier); and we could give the opportunity for debate on each proposed application of the power by having the secondary legislation subject to affirmative resolution.

May I ask you again to reconsider? I am copying this letter to the Prime Minister, others members of E(LF) and to Sir Robin Butler.

JOHN MAJOR

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PS/Chancellor
 Sir Peter Middleton
 Mr Anson
 Mr H Phillips
 Mr A J C Edwards
 Mrs Case
 Mr Turnbull
 Mr Potter
 Mr Laite
 Mr Call

Treasury Chambers, Parliament Street, SW1P 3AG

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

22nd November 1988

MP

Dear Nick,

LOCAL AUTHORITY FEES AND CHARGES

Thank you for your letter of 17 November. I have also seen Peter Walker's letter in support of mine of 14 November.

I have considered carefully your revised proposal to introduce a power to set charges for the specific items identified in the attachment to your letter. With great reluctance I must say that I am not convinced that this would be the right way forward.

First I wonder whether, starting at this late stage, it would prove possible to draft the necessary schedule in time: it would involve a wide range of Departments in preparing for primary legislation now, rather than secondary legislation on the more relaxed timetable that had previously been envisaged. In practice I suspect several of the candidates in the list might have to be dropped.

Second, such a proposal - especially if we lose some of the candidates - falls a long way short of the general enabling power which was discussed and approved in E(LF) last year and confirmed only six months ago. It would be a meek measure rather than the general power which Christopher Chope confirmed to Parliament that we would introduce "at the earliest legislative opportunity".

My preference therefore remains that we should introduce the general power, thus setting the legislative basis for the specific items you have identified above and any other we might wish to introduce in the future. We ought to bear in mind that change in LA functions in prospect in areas like housing, community care etc

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and the new post 1990 financial regime (including greater contracting out) ought to lead to a more enabling and overseeing role for local authorities - for which they can and in most cases should charge.

I do accept, of course, that there could be Parliamentary difficulties in presenting the new power. But the solution lies in making our intentions clear and perhaps showing a willingness to discuss each and every application of the powers in future. Thus in the primary legislation it should be possible to specify general areas where the powers would not be used (this was our agreed intention earlier); and, if absolutely necessary, we could give the opportunity for debate on each proposed application of the power by having the secondary legislation subject to Affirmative Resolution.

I would be grateful for your further views on this. I am copying this letter to the Prime Minister, other members of E(LF) and to Sir Robin Butler.

Yours Ever,
John
JOHN MAJOR

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BF 29/11

MP

10 DOWNING STREET

LONDON SW1A 2AA

From the Private Secretary

28 November 1988

Dear Roger,

LOCAL AUTHORITY FEES AND CHARGES

The Prime Minister has seen the recent correspondence between your Secretary of State and the Chief Secretary.

The Prime Minister recognises the sensitivity of proposals for introducing charges, and thinks it important to be clear what is in mind and whether it is possible. At the same time she believes it is important to plan for the post-1990 financial regime for local authorities, which should lead to a more enabling and overseeing role in which charging could become more important.

The Prime Minister therefore sees attraction in proceeding broadly along the lines suggested by the Chief Secretary in his latest letter of 22 November, of introducing a general power but with each application through secondary legislation being subject to Affirmative Resolution. In the course of debate on the general power she thinks it would be helpful to highlight the main possibilities currently in mind for further charging drawing on the list attached to your Secretary of State's letter of 17 November.

I am copying this letter to the Private Secretaries to members of E(LF) and Sir Robin Butler.

Yes,
Paul
(PAUL GRAY)

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28/11

Roger Bright, Esq.,
Department of the Environment.

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PH



HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

CH/EXCHEQUER	
REC.	- 1 DEC 1988
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✓ 1/12 30 November 1988



Dear Nicholas,

LOCAL AUTHORITY FEES AND CHARGES

I have been following your exchange of letters with John Major on how we should implement E(LF)'s decision to widen local authority powers to levy fees and charges.

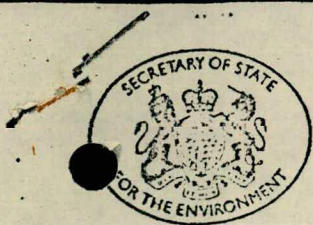
Although I understand the political risk of seeking a general enabling power, the alternative you propose also presents difficulties. Listing specific areas may prove unduly restrictive, resulting in time-consuming discussions on the existence of some activities which will come within the scope of the power (e.g. sex shops) and, more important, may cut across the need to consult interested parties before making our intentions known in the Bill.

eh?

On balance, I favour taking a general enabling power which would allow us to move at a more leisurely pace and consult as necessary before introducing secondary legislation. I agree with John Major that we should be prepared to offer the Affirmative Resolution procedure as a means of heading off criticisms about the use of the new power. If we are to adopt this general approach it would, of course, be necessary to specify exemptions as agreed by E(LF) for such services as policing, firefighting and the conduct and registration of elections. I understand that work defining these areas is well advanced.

I am copying this letter to the Prime Minister, other members of E(LF) and to Sir Robin Butler.

Jones,
Doyl



2 MARSHAM STREET
LONDON SW1P 3ED
01-212 3434

My ref:
Your ref:

CH/ CHEQUE	
REC.	5 DEC 1988
ACTION	CST
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✓ S/12 MP

The Rt Hon John Major MP
Chief Secretary
HM Treasury
Parliament Street
LONDON
SW1P 3AG

2 December 1988

Dear Chief Secretary

LOCAL AUTHORITY FEES AND CHARGES

In the light of the Prime Minister's view (as expressed in her Private Secretary's letter of 28 November) I am prepared to proceed on the lines suggested in your letter of 22 November. There are, however, a number of issues concerning the nature of the enabling power which remain to be resolved.

First, I propose to confine the power to enabling local authorities to charge and not to proceed with the proposition (reflected in the draft clauses) that it should be capable of being used to require local authorities to charge.

Second, I am concerned about the proposition (also reflected in the clauses as currently drafted) that the power should be capable of being used to override existing statutory prohibitions on charging. I do recognise, however, that it will be necessary to override existing statutory prohibitions on charging for library services, if Richard Luce is to give effect to his proposals. I propose, therefore, to provide for this one prohibition to be overridden, but not to allow the enabling power to be used generally to override statutory prohibitions.

Third, as you know, there is an outstanding difficulty with Malcolm Rifkind concerning the form of words to be used to refer to consultation with local government. I see no way of avoiding considerable embarrassment if we use two forms of words, to refer to consultation north and south of the border, as Malcolm has proposed. I therefore propose that the enabling power in the Local Government and Housing Bill should apply in England and Wales only, so that Malcolm can make separate legislative provision for Scotland.



Fourth, there is the question of whether the enabling power should be capable of being used by the Lord President in respect of library services. I have no objection to this approach, and my officials will therefore ask Parliamentary Counsel to amend the draft clauses accordingly.

Finally, I agree with your suggestion that the Bill, on introduction, should indicate that regulations made under this power will be subject to affirmative resolution procedure.

I am copying this letter to the Prime Minister, members of E(LF) and Richard Luce.

Yours sincerely
RB

RB NICHOLAS RIDLEY

(approved by the Secretary of State
and signed in his absence).