



**CONFIDENTIAL**

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From the Secretary of

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14 November 1989

*NBPM de this  
stage.*

*Dr S...*

**COMMUNITY CARE**

*REC 6  
15/11*

*Pr 22 below.*

This letter responds to points which colleagues have made on the draft White Paper circulated with my letter of 20 October, and on the legislative proposals circulated by David Mellor with his letter of 19 October.

I am grateful for colleagues' broad endorsement of our proposals which has enabled us to agree on the content of the White Paper, publication of which will be on 16 November. We have re-cast chapter 1 of the draft White Paper on the lines proposed by the Prime Minister, and have been in touch with her office about other drafting changes. This letter deals with outstanding policy issues.

Preserved Income Support

This is primarily for Tony Newton, but he and I have agreed to give no time limit at this stage for the preservation of existing entitlements.





### Health Authorities as Suppliers of Social Care

I have noted Norman Lamont's objections to my proposals. I remain strongly attracted to the idea of enabling health authorities to compete as providers of social care (ie to offer services for purchase by local authorities). However, to enable the proposal to be more fully considered the White Paper does not refer to the subject. I shall make further proposals to colleagues in due course.

### Power to make Specific Grants

Norman Lamont and Chris Patten have objected to David Mellor's proposal that we should seek a general power to make specific grants. I accept that we should seek only the power to make the grant for mental illness services which has already been agreed.

### Preserved Rights: "Topping Up"

Both Tony Newton and Norman Lamont have argued that local authorities should be able to "top-up" the Income Support payments received by people with preserved entitlements. Tony and I have met to discuss these issues and have reached a measure of agreement. The issue has also been discussed with Norman Lamont's officials.

I have put to Tony Newton my firm belief that to provide in advance that local authorities could "top-up" Income Support would itself help to bring about the very outcome that we want to avoid, since it would encourage home owners to put up charges, and relatives to pull out of any "topping-up" they already provide. Very substantial sums of money could be required to enable them to respond to irresistible claims from existing residents with preserved entitlements who were unable to meet home owners' charges. Home owners would have few restraints upon their ability to charge.

Stimulating demand for "topping-up" could therefore wreck the implementation of the new arrangements by diverting local authority attention from new applicants to existing residents. New applicants - who we intend to have a better deal - would on the contrary suffer delays and poor service. We cannot afford to get off on such a wrong foot.

Having said that, I accept that we shall need to watch carefully for the possible development of indefensible anomalies between the Income Support levels and prices negotiated by local authorities, and I agree with Tony Newton that future decisions on Income Support levels should seek to ensure that the limits have a defensible relationship with the prices paid by local authorities.





Tony Newton and I have agreed that primary legislation will make clear that local authorities' power to provide accommodation in homes should not extend to people resident in private and voluntary homes on the appointed day; but that I should take a power which will enable me to make exceptions to this in Regulations. Regulations will be in place by the Appointed Day. Broadly, they would exempt the following types of people:

- i. those topped-up or sponsored under existing arrangements;
- ii. other people under pension age;
- iii. people who, although resident in a private or voluntary home on the appointed day, were found by the independent adjudication authority not to have preserved entitlement;

It may also be necessary for the Regulations to allow local authorities to help those people over pension age who, in the opinion of the local authority, would be caused great hardship and be in danger of becoming homeless if the local authority did not help them. Further consideration is being given to this.

#### Disability Benefits

These points have now been resolved so far as the White Paper is concerned. I am pleased that the issues are now to be considered separately on a longer timescale. I have a major interest in what Norman proposed for the Independent Living Fund (ILF), and it needs much more careful thought than we have so far been able to give it. I have no objection to indicating in the White Paper that the relationship between the ILF and local authorities' new responsibilities will need to be reviewed.

#### Disabled Persons (Services, Consultation and Representation) Act 1986

Chris Patten queried the relationship between our proposals for assessment and the Disabled Persons Act. Our proposals for assessment in the present Bill are designed to be free standing. We are giving separate consideration to the implementation of Section 3 of the Disabled Persons Act and will take account of the point raised by Chris.





### Community Care plans

Chris Patten also asked for the proposals for community care plans to include requirements to consult. I intend to use the direction making power I propose to take in the forthcoming NHS Bill to require local authorities to consult in the preparation of their community care plans with a range of bodies including housing authorities and health authorities.

### General Power to Give Directions

Chris Patten queries whether the general power to give directions to local social services authorities in the Bill is strictly necessary. Although, as he says, we have in the past stressed a non-interventionist role, I think we are now moving into a rather different situation. Throughout our response to Sir Roy Griffith's report we have stressed the need to be able to exercise firmer control over the activities of Social Services Departments. Existing statutory provisions, including the 1970 Act, are not adequate for this purpose. I am prepared to say that directions would be issued only when absolutely necessary, and then only sparingly. Without the power to issue them, I think the Government's ability to bring about the necessary changes would be seriously weakened. The White Paper commits us to seeking the power. I hope that colleagues accept that we should do so on the basis that we can reconsider if necessary in the light of reactions. I have taken on board Chris' helpful comment on powers to call for reports and statistics.

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

A handwritten signature in black ink, appearing to be "K. Clarke", written in a cursive style.

KENNETH CLARKE

