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PRIME MINISTER

COMMUNITY CARE : IMPLEMENTATION

In summing up our discussion on 2 May you asked me to commission further work on:

- the public expenditure implications for local authorities and the Departments of Health and Social Security;
- measures to control local authority spending on community care.

You noted that these issues could not be considered in isolation from wider discussions about action to tackle the problems of the community charge.

2. A paper prepared by officials of this Department, in consultation with the Departments of the Environment and Social Security, and the Treasury, is enclosed.

3. On public expenditure, given that decisions have yet to be taken in PES, Departments have agreed that the figures in Part I of the paper inevitably have to be illustrative at this stage. They are sufficiently firm, however, in my judgement, to establish that deferral has no significant advantages on spending grounds over a four to five year period. I continue to believe that the advantages would have to be much greater than these figures suggest if they were to begin to compare with the disadvantages of delay ie,

- the continued absence of any control over spending in support of people in homes,
- postponement of the improved value for money we are seeking, and
- the political consequences described in my minute of 30 April.

4. The actual sums involved need to be settled through PES. While I aim to keep downward pressure on local authority spending I believe we must take account of inescapable implementation costs. Failure to do so would result either in extra pressure on the community charge, or in inadequate implementation. We embarked on this policy because of a belief that the new arrangements would improve control over expenditure which was increasing dramatically in spite of our attempts to control it centrally. Deferral would raise again all the issues that led us to embark on this course.

5. Whatever provision we make for expenditure, actual spending decisions will of course be taken by local authorities. Part II of the paper describes what would be involved if we tried to take control over those decisions ourselves. The disadvantages of so doing seem to me to be overwhelming.

6. Even if we could overcome the practical difficulties of defining the precise expenditures to be controlled, and preventing accounting devices to evade the controls, we should face:

- having to assess local needs and service requirements in great detail;
- being constrained by currently planned levels of local spending and the speed at which changes could be made to accommodate new requirements;
- additional central government expenditure to operate the controls;
- a much greater measure of political responsibility and accountability for local budgets and their effects on services including possible exposure to judicial review.

7. I do not believe that these consequences are acceptable. Even if they were, it would be unwise in my judgement to expect too much of such arrangements in terms of their effects on spending or charge levels. Personal social services are a relatively small proportion of total local authority spending and if, as I believe, we could in practice operate only marginally, year-on-year, in applying controls, any effect of our efforts on spending and charge levels seem likely to be relatively small. It would also in my view be very damaging to single out community care or personal social services for this special treatment.

8. I do not believe that specific grant would help to control expenditure as a whole. Although it could be used to reassure those who fear that the transferred resources from DSS will be diverted from community care I continue to believe that to be unnecessary. Those who press us to introduce a large specific grant do so because they want to ensure that sufficient resources (in their view) are allocated, and protected. An amendment to this effect, and another to make grants towards start-up costs, have been made to the NHS and Community Care Bill during Committee Stage in the House of Lords, against our wishes. Parliamentary Counsel advises that Commons' privilege could readily be invoked against them and also against a third amendment which would prevent implementation until I was satisfied that resources were adequate for all who may need community care. I shall want to consider our approach to these amendments in the light of our decisions on the timetable for implementation of the community care changes and also following consultation with the Business Managers.



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9. The further work that has been done does not alter my view on deferral; nor does it reveal, in my view, acceptable ways of introducing entirely new and selective controls over local authority spending decisions on community care.

10. I am copying this minute to the Secretaries of state for Scotland, Social Security, the Environment, Wales, and Northern Ireland, the Chief Secretary, and Sir Robin Butler.

A handwritten signature in blue ink, appearing to be 'KC', is written in the center of the page.

KC

17 May 1990
Secretary of State for Health



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COMMUNITY CARE : IMPLEMENTATION

This paper covers the issues on which further work was requested at the Prime Minister's meeting on 2 May.

Part I deals with the likely effects of implementation on public expenditure as a whole

Part II looks at measures to control local authority expenditure on community care



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**COMMUNITY CARE IMPLEMENTATION
PART I PUBLIC EXPENDITURE EFFECTS**

1. At the Prime Minister's meeting on 2 May Ministers called for figures showing the likely effects of implementation on public expenditure as a whole.

2. Attached at Annex A are two tables.

Table 1 shows the effects of implementing the policies set out in "Caring for People" from April 1991

Table 2 shows the effects of deferring implementation of those policies until April 1993

The tables are summarised in the graph at Annex B.

3. The figures are illustrative, are for England only, in 1991/92 prices, and take account of the latest available information (for example on the effects of the August 1990 uprating of income support limits). The tables show the effect on public expenditure compared with baseline figures for policy prior to the White Paper "Caring for People". It should be noted, however, that the Tables are only intended to illustrate the relative effects of implementation of White Paper policies in 1991 or 1993. Continuing with pre-White Paper policies has long been rejected by Ministers as a viable option. Previous consideration failed to find an effective alternative approach to controlling social security expenditure which was acceptable to Ministers. Furthermore, recent events have suggested that an ever-widening gap between income support limits and charges for residential care could lead to intense pressure for increases in those limits which, if conceded, would increase the costs of pre-White Paper policies above those in the baseline. The tables may be considered in the context of the total estimated expenditure on community care and relevant social security expenditure in 1990/91, which is (in 1991/92 prices)

	£m
Local authorities	2,550
HCHS	350
Social security	1,440
TOTAL	4,340

4. The tables show separately, for each of the three components of expenditure, the amounts which are transferred between those components, and additional costs which DH and DSS consider would need to be met. The transfer figure is likely to be in the range £265 - £325 million in the first year depending on decisions still to be taken on the mechanism for determining the "eligible rent" for housing benefit in residential care homes. A figure of £300 million is used in the table for illustrative purposes.

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5. There are important assumptions underlying the figures.

- (a) A key assumption is that local authorities will, if the policies in "Caring for People" are implemented, act as highly effective "gatekeepers".
- (b) The figures include a DSS assessment (not agreed by the Treasury as this would pre-empt decisions in PES) of the possible costs of meeting the additional political pressure they would face if those policies were deferred. It would be for discussion how far these pressures could be resisted with any additional expenditure a matter for discussion in PES in the normal way.
- (c) Similarly allowances (not agreed by the Treasury as this would pre-empt decisions in PES) have been made for the estimated additional costs to local authorities in meeting new requirements and covering part of the shortfall between IS limits for people in homes and proprietors' charges which DH consider will be incurred over and above any savings in care costs.
- (d) The cost of the specific grant for developing services for the mentally ill is not included in the tables, on the assumption that it will go ahead in 1991 in any event. DH believe such a grant should be of the order of £30 million in 1991/92, increasing in subsequent years.

6. On these assumptions, implementation in 1991 leads to higher costs in the short term, but deferral to 1993 is a more costly option from 1993/94 onwards.

7. Preliminary estimates by the local authority associations are much higher than the assumptions in this paper. Historically, actual expenditure by local authorities on social services has been well below such preliminary estimates, though slightly higher than Government estimates.

8. As regards the community charge effects, it should be noted that the amounts to be transferred from DSS to the local authorities will be funded fully through AEF so that the community charge will not be affected (and neither will the planning total nor GGE). The effect on the community charge of any additional expenditure by local authorities above the amounts transferred, eg the amounts illustrated in the tables, will depend on decisions taken by Ministers and by the authorities themselves. Ministers need to decide:-

- (i) whether to make additional provision in Total Standard Spending.
- (ii) what proportion of that provision should be met by AEF and how much should fall on the community charge.



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Insofar as local authorities spend in line with the assessed level of need the community charge effects will be as intended by Ministers. If they spend more, all of this extra spending will fall to be financed from the community charge.

9. The public expenditure effects of any expenditure by local authorities additional to that transferred from DSS are as follows. Part of any increase in the community charge would be reflected in increased Community Charge Benefit (CCB). Both any increase to AEF and the increase in CCB would add to the planning total. All of the extra expenditure would add to GGE.

ANNEX A Public Expenditure Effects Compared With A Projected Notional Baseline

Table 1 Implementation April 1991

1991/92 Prices England

	1991/92			1992/93			1993/94			1994/95			1995/96		
	Tr £m	A £m	Total £m	Tr £m	A £m	Total £m	Tr £m	A £m	Total £m	Tr £m	A £m	Total £m	Tr £m	A £m	Total £m
LA	296	201	497	664	217	881	925	206	1131	1196	171	1367	1428	154	1582
HCHS	4	49	53	4	46	50	5	53	58	5	59	64	5	60	65
DSS	-300	45	-255	-668	55	-613	-930	60	-870	-1201	50	-1151	-1433	45	-1388
Total 91			295			318			319			280			259

300 Sum = 932 = 1212 = 1471

Table 2 Implementation April 1993

1991/92 Prices England

	1991/92			1992/93			1993/94			1994/95			1995/96		
	Tr £m	A £m	Total £m	Tr £m	A £m	Total £m	Tr £m	A £m	Total £m	Tr £m	A £m	Total £m	Tr £m	A £m	Total £m
LA	0	0	0	0	0	0	355	226	581	772	280	1052	1060	295	1355
HCHS	0	0	0	0	0	0	5	53	58	5	50	55	5	57	62
DSS	0	130	130	0	170	170	-360	165	-195	-777	135	-642	-1065	120	-945
Total 93			130			170			444			465			472

130 Sum = 744 = 1209 1681

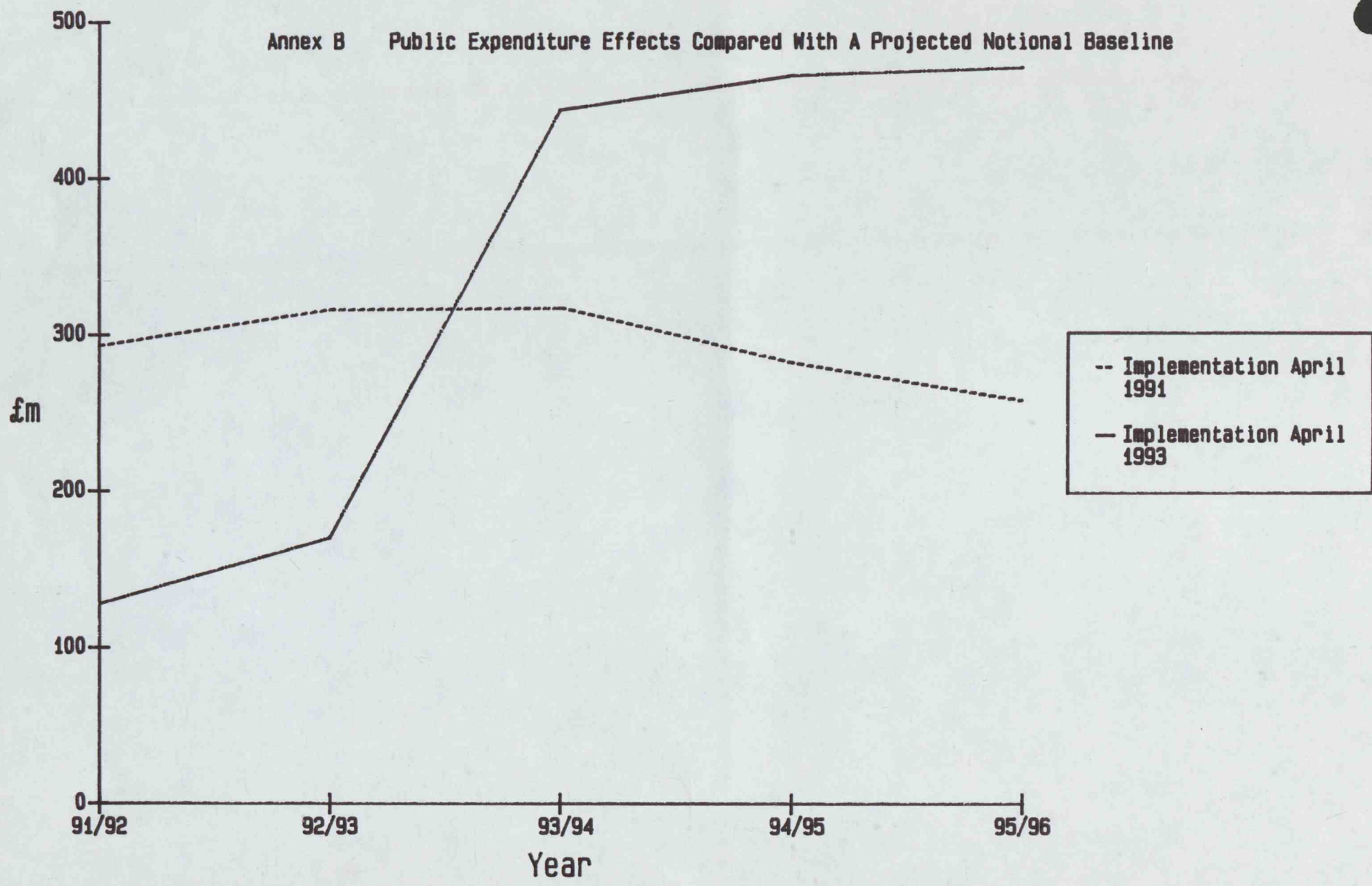
Notes:

The "Total 91" and "Total 93" rows show the net cost of implementation in 1991 and 1993 respectively over estimates already in the projected baseline.

Tr = Transfer calculations which sum to zero
A = DSS/DH Estimates of possible additional cost

LA = Local Authority, HCHS = Health and Community Health Services

Annex B Public Expenditure Effects Compared With A Projected Notional Baseline



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COMMUNITY CARE IMPLEMENTATION
PART II - AN UPPER LIMIT ON SPENDING

1. At the Prime Minister's meeting on 2 May Ministers raised three questions
- (i) whether it is possible to set a limit on one aspect of local authorities' expenditure
 - (ii) whether any limit should apply to community care or to social services as a whole
 - (iii) whether it would be desirable to back up any limit with a specific grant.

SETTING A LIMIT

2. There is inevitably a risk that local authorities will spend more than whatever amount the Government thinks appropriate (and hence provides for in the RSG Settlement) on implementing the new arrangements for community care, and that community charges will be higher than anticipated on that account. One potential way of reducing that risk would be to take powers to limit the amount which authorities can spend on this function. If this could be achieved, the Government could exercise some control over the impact of the community care proposals on the community charge.

3. Previous attempts to influence local government expenditure have been by controlling income. Attempting to control expenditure would be a new departure, and raises three areas of potential practical difficulty

- (i) defining the expenditure to be controlled
- (ii) setting the level of expenditure for each authority
- (iii) sanctions

Defining the Expenditure to be Controlled

4. It would be necessary to have a watertight definition of the expenditure to be subject to control, otherwise authorities would be able to avoid the effects of the control. This depends first on the Government being able to define with legal precision the categories of spending to be subject to limitation, and secondly on authorities having in place accounting systems which can record expenditure in line with that definition.

5. It has proved possible (although with some difficulty) to ringfence the Housing Revenue Account (HRA). But the HRA has existed on a statutory basis for many years prior to ringfencing, and hence accounting conventions and operational systems have grown up which enabled ringfencing to be implemented. Moreover, much of housing expenditure, being tied directly to buildings, is more easily identified and hence less susceptible to misallocation. Even so there is a considerable range of expenditure at the margin where local authorities in effect have a discretion to debit to the HRA or some


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other revenue account. Often such expenditure is apportioned by the authority as they think appropriate. The size of this margin is likely to be considerably greater for social services than for housing.

Setting Expenditure Levels

6. The Government would have to set a limit for each of the 108 social services authorities on the amount that they could spend on the activities covered by the controls. At least initially, this would have to be done on a formula basis. The obvious starting point would be the SSA component for social services. This is, however, by its nature an approximation. SSAs for authorities as a whole have not been thought sufficiently robust to provide an absolute limit on expenditure, and that argument applies with greater force to a single service element of SSAs. The setting of PSS SSAs would undoubtedly come under intense scrutiny with attention being drawn to the complexity of the factors which produce levels of need for social services at the individual authority area. DH Ministers would be under continuous pressure to reassess the way in which PSS SSAs were determined.

7. Initially it would also be necessary to take account of local authorities' existing spending in excess of SSA since it would be unreasonable to expect certain authorities to reduce spending to SSA in a single year. Over three quarters of authorities have expenditure in excess of SSAs. A formula would therefore ideally have to be devised under which the limit was related both to the SSA for 1991/92 and to the existing pattern of spending. This would require the Government to be able to identify the amount which authorities are spending this year on the services which would fall within the ringfence for next year. That poses very significant difficulties. And this year's budget figures will no doubt reflect a number of anomalous or unrepresentative factors, leading to unfairness if used in this way.

8. Decisions on expenditure levels would be particularly difficult when local authorities were being given additional responsibilities for community care as Ministers would have to consider both the total level of expenditure needed for those responsibilities to be adequately funded and how that expenditure should be distributed among the authorities.

9. It is likely that a system of derogation would be needed under which the Secretary of State could allow authorities extra headroom where they can make a convincing case. It is likely that many of the 108 social services authorities would seek derogation and dealing with such requests would have substantial resource implications for central government, concentrated particularly in the first few months of any calendar year, including a probable need for large numbers of ministerial meetings with local authorities. Such a system also carries a significant risk of judicial review.

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10. The issues discussed in this section do not arise for the HRA since the ringfence does not in itself place any limit on housing expenditure; authorities are constrained by statute to produce a balanced HRA, but they have the flexibility to incur higher spending if they are prepared to finance this from rents.

Sanctions

11. Community charge capping (like rate capping before it) operates on the basis of limiting income. It is therefore easy to police, because it is obvious to charge payers how much they are being asked to pay, and if an authority were to attempt to set an ultra vires community charge nobody would be obliged to pay it. Limiting expenditure is very different. Outturn can be different from budget, and in the less well managed authorities the true spending position for any year may not emerge until after that year has ended. This is particularly the case when costs have to be apportioned. What then if expenditure is higher than the limit? The only alternatives would be to require offsetting savings from some future year, or to surcharge councillors. Neither route is attractive. Grant penalties related to overspend were a feature of the local authority financing regime of the mid-1980s; but they were felt to blur accountability and were a declared reason for seeking a new system.

Controlling the Contribution to Community Care Expenditure from the Community Charge

12. An alternative to controlling expenditure on community care would be to control the contribution which local authorities could make to that expenditure from their general funds. This would leave authorities with slightly more discretion than controlling gross expenditure as they could raise additional income from charges for services. (If expenditure net of income from charges for services were to be controlled this would, of course, give authorities similar discretion.) It would also alleviate some of the difficulties over sanctions. But it would not affect the need to define the expenditure to be covered by a community care budget and to set a level for each authority.

COMMUNITY CARE OR SOCIAL SERVICES?

13. Attempting to limit expenditure on community care would be even more difficult in practical terms than attempting to limit expenditure on social services as a whole. It would not be practicable to distinguish between "new" community care responsibilities and existing ones. It might be possible to sub-divide expenditure on social services by excluding expenditure on services provided under the Childrens Acts, but even this would leave authorities with scope for attributing expenditure to the non-cash limited childrens services. Authorities organise their services in different ways, but single points of entry to services as a whole through local offices are common, as is work with whole families.

14. In practice, therefore, the social services budget as a whole is probably the only meaningful quantity that could be measured on any sort of consistent basis between authorities. But even for that

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service there will be substantial areas at the margin where it is not clear whether expenditure is on account of social services or some other budgets. Authorities will quite legitimately have different practices - for example in attributing expenditure to social services or to centrally provided services such as legal services, personnel and finance. There are also "grey areas" between the responsibilities of different statutory authorities. Limiting expenditure would give rise to new perverse incentives by encouraging social services authorities to minimise their role and place extra burdens on others. For example, there would be an incentive to designate accommodation as sheltered housing rather than residential care. Local authorities would also have every incentive to claim that services for a particular individual should be provided by the NHS rather than themselves. A standard practice could (with some difficulty) be devised, but it would then be necessary to establish the extent to which current practices varied from the new standard and make appropriate allowance for the difference.

A SPECIFIC GRANT?

15. Specific grants do not, in themselves provide a mechanism for limiting expenditure. Indeed they act in the opposite direction, by ensuring a minimum level of expenditure, and not a maximum. However, Ministers will wish to consider whether to combine any limit - if one were introduced - with a specific grant set at a high proportion of the limit. With a specific grant, by threatening to withhold money at the margin if local authorities did not produce acceptable plans, Ministers could set priorities for expenditure within the limit, seek to ensure proper targeting and encourage value for money. On the other hand, local authorities' discretion and accountability to the electorate would be further reduced. Managing a specific grant would be staff intensive for DH, but setting a limit would itself be staff intensive, and require a concentration of effort in part of the year.

ACCOUNTABILITY


16. With or without a specific grant, and whether any limit applied to social services as a whole or to only part of them Ministers will be faced with making their own judgements about local needs for services and will become more directly answerable for the consequences of those judgements. Limiting the whole of social services expenditure rather than only part of it would of course heighten ministerial responsibility across the board, notably in the very sensitive area of child protection.

LEGISLATION

17. Implementation of a limit on expenditure on community care or social services, including sanctions, would, of course, require detailed and controversial primary and secondary legislation.

CONCLUSION

18. (i) Attempting to limit expenditure (as distinct from influencing it via controls and limits on income) would be a new departure in local government finance. It would present major difficulties in:-



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- defining the expenditure to be controlled sufficiently tightly
- setting the expenditure level
- and providing sanctions where that level is exceeded (sanctions could not be effective in the year of overspend)

(ii) It is extremely doubtful whether there is at present sufficient consistency in the way in which social services expenditure is accounted for to enable a control of this kind to be workable. New accounting and information systems would need to be introduced by the local authorities, which would be very difficult to achieve quickly.

(iii) Ministers would become accountable for setting individual expenditure levels for 108 social services departments with widely varying levels of need and existing spending levels. There would be endless scope for authorities to seek ways round the controls by manipulating expenditure. And for challenging the expenditure levels set.

(iv) Even if a practicable scheme could be worked out its effectiveness would be limited by the likelihood that expenditure limits would have to take account of existing spending levels, identifiable future needs and the rate at which any necessary reductions could be imposed without damaging consequences.

(v) Community charge levels might be marginally reduced, but would probably not immediately be brought into line with the levels which would result from local authority expenditure matching the Government's assessment of need.

(vi) There could be substantial resource implications for central Government in administering the scheme.

(vii) Attempting to limit the contribution to expenditure from community charges would not significantly relieve any of the foregoing difficulties.

(viii) Overall control of expenditure without a specific grant would render Ministers accountable for community care/social services spending but without providing any power to influence what the expenditure was used for.

(ix) Overall control of expenditure combined with a large scale specific grant would enable Ministers to influence the way in which the resources were spent. It would however draw them even further into accepting responsibility for the adequacy of services levels and would further reduce local accountability.



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(x) The problems of definition would be greater if community care expenditure were ringfenced rather than social services as a whole. But were social services expenditure as a whole to be ringfenced Ministers would also be held accountable for deficiencies in highly sensitive areas such as child protection.

19. Should Ministers wish to pursue any of the options considered in this paper, further detailed work will be needed, including the preparation of examples of how different ways of defining the expenditure to be limited and setting limits might affect individual authorities.

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