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CABINET

MINISTERIAL COMMITTEE ON ECONOMIC STRATEGY

LOCAL GOVERNMENT FINANCE: TRANSPORT SUBSIDIES

Memorandum by the Secretary of State for Transport

1. The House of Lords judgement on the London Transport case is now expected on 17 December. I shall circulate a paper as soon as possible thereafter for consideration at the Committee's meeting on 22 December.
2. If the Lords uphold the GLC's appeal or dismiss it only on procedural grounds, we shall need to consider whether to introduce legislation to control public transport subsidies. If the Lords uphold the Court of Appeal, on the other hand, a great deal would depend on the terms of the judgement. It may be that no further action would be needed to contain transport subsidies. Or it might be desirable to reinforce the judgement with provision for me to lay down statutory guidelines of the kind proposed in E(81)126. Legislation might be needed to ensure that the effect of the judgement applied also to the Passenger Transport Executives (PTEs).
3. If the Court of Appeal's judgement is upheld, London Transport, could be faced with a cash crisis early in the New Year. That would be primarily a matter for the Greater London Council, but it might not be possible for us to stand aside if there was any real risk of London Transport running out of cash leading to a possible break down of public transport in London.

Possible Legislation

4. At its meeting on 3 December I was invited to arrange for the drafting on a contingency basis of legislative measures on the two alternative approaches discussed in E(81)126. The guidelines approach would depend essentially on building on the judgements in the London Transport case. It would not therefore be practicable to draft any legislative provisions on these lines until there has been time to consider the terms of the House of Lords judgement.

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5. Counsel has, however, drafted a Bill to give effect to external finance limits (EFLs). A copy of the Bill is circulated herewith, together with a note describing its provisions. (Annex A).

6. I am in no doubt that there must be a reduction in the level of subsidies being given by the GLC and Metropolitan Counties to their Transport Executives. We shall need to decide to what extent the House of Lords or political reactions to it in the GLC will do our work for us. If we decide to go ahead with a Bill providing for EFLs, achieving Royal Assent in time to bring it into effect for the financial year 1982/83 will involve a very tight Parliamentary timetable, with a guillotine on the Commons Committee Stage from the outset. From this point of view although it would be possible to introduce it before the House rises, ie on 23 December, there would be political and presentational advantages in waiting until after the Recess so that we do not seem to have prejudged the decision of the House of Lords.

7. As soon as the Bill were published I would need to make a statement explaining the purpose of the legislation. The authorities and Executives concerned would be notified of the proposed EFLs as soon as possible thereafter and invited to discuss them with my Department.

8. We shall have to be ready to discuss with the authorities the various assumptions on which the EFLs are based, including assumptions about pay, costs and productivity. The EFLs will need to be realistic in terms of wage settlements already reached. The Greater Manchester PTE has just settled for 7.8% and this is likely to be treated as a minimum target in other wage negotiations.

9. The Table at Annex B shows the external finance figure (as defined in the proposed Bill) in 1980/81, the likely figure for 1982/83 if we do nothing, and the limit which I should need to set to restore subsidies to the levels provided in our public expenditure decisions (which I have reflected in my TSG settlement). As I warned my colleagues in E(81)126, I will not be able to set EFLs which reduce expenditure on subsidies to the levels we have provided for in these figures. The Table also shows what would be involved in increasing fares back to their 1980/81 level in real terms. I do not believe we shall be able to recover the whole of this lost ground - there is in every area but in others - South Yorkshire for example - there is a case for going further. My aim will be to secure a lower and more consistent level of subsidisation as a proportion of costs. However, because of the difference in financial position of the 3 Executives and the scope for fare increases this may take 2 or 3 years to achieve. But I should want to avoid as far as possible to appear to be dictating fare increases or service cuts, which would be for the Executives to determine.

10. In the absence of full information, my first EFL figures could only be indicative, and subject to amendment in the light of representations by the Executives and the Authorities about their local conditions. I shall need latitude to make changes in negotiation so as to set limits which could be defended as realistic.

Implications of EFL Legislation

11. I believe that the EFL scheme would bring substantial reductions in expenditure on revenue support. It does not raise such wide constitutional issues as the referendum proposals originally in the Local Government Finance Bill. Our own supporters would be unlikely to object to the proposals in principle. We should be taking positive steps to deal with one of the most blatant causes of over-spending. But I have not been able to consult our own supporters in advance of the judgement by the House of Lords (and there will be no time to do so if we have to introduce the Bill before Christmas).

12. Against this there are some drawbacks:

- (a) Some risk of successful challenge against the Orders fixing the EFLs cannot be avoided.
- (b) If we go to the length of fixing EFLs we must be able to make them stick. The reserve powers are therefore essential, but they look draconian.
- (c) The fare increases caused by fixing EFLs will be unpopular, particularly if the scheme does not succeed in bringing about a reduction in rate burdens at the same time.
- (d) To mitigate the fare increases required, Executives may resort to cuts in capital expenditure with serious implications for Metro-Cammell, or reduce support to BR services; either of these could cause us embarrassment.

Refunds to Ratepayers

13. I was also invited, in consultation with the Secretary of State for the Environment, to consider further the provision of a duty to require local authorities to repay rates raised for transport expenditure which was not subsequently authorised. I have copied to my colleagues my letter of 13 December to the Secretary of State for the Environment about this. Much as I sympathise with the objective I see no way in which this matter could be dealt with in legislation confined to Transport.

Conclusions

14. I shall circulate a further paper as soon as possible after I have considered the House of Lords judgement. However if the House of Lords allow the GLC's appeal we may wish to introduce legislation quickly to give effect to the EFL scheme. I am therefore circulating a draft Bill now so that colleagues can consider it in advance. Given dispensation from clearance with L Committee, it could be introduced on 23 December. That would help to ensure that the provisions in the Bill could take effect for the financial year 1982/83. But consultation with our own supporters would not be

practicable unless we could delay introduction until after the Christmas Recess, and any delay could add to the problems of handling the Bill in Parliament.

D A R H

Department of Transport
2 Marsham Street
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16 December 1981

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TRANSPORT EXECUTIVES (EXTERNAL FINANCE LIMITS) BILL

Clause 1 of the Bill provides for the Secretary of State to make orders prescribing external finance limits (EFLs) for the six English Passenger Transport Executives (PTEs) and the London Transport Executive (LTE). The Clause specifies the grants to the Executives which are to count towards the limits.

Clause 2 requires all the specified grants to be paid into a special bank account - the transport grants account. The Clause provides that the amounts an Executive may withdraw from the account and borrow are together limited to its EFL. The capital value of any leased assets, less any capital payment, also counts towards the EFL. The Secretary of State is to have power to direct how any balance left in the transport grants account at the end of the year should be dealt with.

Clause 3 provides reserve powers which are activated by a direction given by the Secretary of State, a copy of which is to be laid before both Houses of Parliament. The reserve powers make the exercise of an authority's powers in relation to its Executive subject to the Secretary of State's consent. They also provide that the Secretary of State may exercise any of the powers himself, except for the power to give grants or loans. In addition the Secretary of State is enabled to dismiss any member of an Executive and to require it to pay compensation.

Clause 4 requires each Executive and Authority to provide the Secretary of State with information he may require to exercise his powers under the Bill.

Clause 5 brings the legislation into effect from 1 April 1982.

EXAMPLE A: Fares increased to 80/1 level in real terms
 EXAMPLE B: Revenue-support component of E.F.L. reduced to P.E.S. provision

Operator	80/1	82/3	EXAMPLE A		EXAMPLE B		Fares for
	<u>Estimated</u> <u>Out-turn</u> (£m)	<u>"Do-nothing"</u> <u>Unchanged policies</u> 82/3 prices (£m)	<u>E.F.L.</u> (£m)	<u>Fares</u> <u>increase</u>	<u>E.F.L.</u> (£m)	<u>Fares</u> <u>increase</u>	<u>2-3 mile</u> <u>journey</u> Dec. '81 (pence)
			82/3 prices		82/3 prices		
London Transport	247	528	298	63%	264	87%	20-30p
Greater Manchester	63	83	78	12%	61	42%	30p
Mersey	58	71	60	21%	57	33%	27p
S. Yorks	62	75	71	19%	36	375%	8p
Tyne & Wear	43	58	46	19%	24	115%	22p
W.Midlands	44	96	60	50%	52	72%	19p
W.Yorks	32	71	55	10%	46	31%	30p
	<u>£550m</u>	<u>£982m</u>	<u>£670m</u>		<u>£540m</u>		

Note: Each of the examples assume:-

- (i) bus labour costs rise by 8% in 82/3
- (ii) 5% cut-back in bus services; 8% cut-back in London services where current proposals are to expand the network

"Fares increase" shown for each option is the increase above present, December '81 levels, set out in the final column.

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Provide for the imposition of limits on the amount of A.D. 1981. expenditure which certain Passenger Transport Executives and the London Transport Executive may defray out of money received by way of grants or loans and, in connection therewith, to provide for controlling the exercise in relation to those Executives of the powers of Passenger Transport Authorities and the Greater London Council.

B E I T ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

5 1.—(1) The Secretary of State may by an order applying to any one or more of the Executives to which this section applies prescribe a limit on the amount of expenditure which any such Executive may in any financial year defray out of money received by it by way of grants for transport purposes and out of
10 borrowed money.

(2) This section applies to—

- (a) the Passenger Transport Executive for any area which is coterminous with a county in England or Wales; and
- (b) the London Transport Executive.

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(3) Subject to subsection (4) below, references in this Act to grants for transport purposes are references to any payments made to an Executive under section 13, 32 or 138 of the Transport Act 1968, section 3 of the Transport (London) Act 1969, section 137 of the Local Government Act 1972, section 115 or 3 of the Transport Act 1978 or section 55(1) of the Education Act 1944.

(4) The Secretary of State may by regulations add to or alter the kinds of payment which are to be treated for the purposes of this Act as grants for transport purposes.

(5) The power to make orders or regulations under this section shall be exercisable by statutory instrument; and a statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

2.—(1) Where an Executive is subject to a limit for any financial year by virtue of an order under section 1 above it shall give effect to the limit in accordance with the following provisions of this section.

(2) The Executive shall pay into a separate bank account (in 20 this section referred to as its "transport grants account") all sums received by it in the financial year in question by way of grants for transport purposes.

(3) The Executive shall perform its functions so as to ensure that the aggregate of—

- (a) the sums withdrawn by it in the financial year in question from its transport grants account; and
(b) the total of its net borrowings for that year, do not exceed the limit prescribed by the order.

(4) Any sums standing to the credit of an Executive's transport grants account at the end of a financial year shall be dealt with in such manner as the Secretary of State may direct.

(5) For the purposes of subsection (3)(b) above the total of an Executive's net borrowings for a financial year is the amount (if any) by which its indebtedness at the end of that year in respect of the principal of money borrowed by it (whether in that year or previously) exceeds its indebtedness in respect of the principal of such money at the beginning of that year; and for the purposes of this subsection any money borrowed or repaid by a wholly-owned subsidiary of an Executive (as defined in section 40 92(1) of the Transport Act 1962) shall be treated as having been borrowed or repaid by the Executive.

1968 c. 73.
1969 c. 35.
1972 c. 70.
1978 c. 55.
1944 c. 31.

Implementa-
tion of
limits.

1962 c. 46.

- (6) Where in any financial year an Executive acquires—
(a) an interest in or right over land which is not the freehold; or
(b) an interest in or right over goods other than the property in them,

the amounts which fall to be aggregated under subsection (3) above in the case of the Executive for that financial year shall include a sum equal to the consideration which would be obtained for the freehold or, as the case may be, for the goods if the land or goods were sold at the time of the acquisition on the open market by a willing seller.

(7) In subsection (6) above references to the freehold are to the fee simple absolute in possession subject to any existing rights other than rights under a mortgage or charge to secure the payment of money; and there shall be deducted from the sum mentioned in that subsection an amount equal to any consideration (other than rent) paid by the Executive in the financial year in question for the interest or right which is the subject of the acquisition.

3.—(1) At any time after making an order under section 1 above the Secretary of State may direct that subsection (3) below shall apply—

- (a) to the county council which is the Passenger Transport Authority in relation to any Executive which is subject to the order; and
(b) if the London Transport Executive is subject to the order, to the Greater London Council.

(2) A direction under this section shall come into force at the beginning of the financial year for which the Executive in question is first subject to a limit by virtue of the order or, if later, when the direction is given; and any such direction shall, unless previously revoked, continue in force so long as that Executive is subject to a limit by virtue of that order or of any subsequent order under that section.

(3) While this subsection applies to a council—

- (a) the council shall not without the consent of the Secretary of State exercise any of its powers in relation to the Executive in question;
(b) the Secretary of State may exercise, instead of the council, all or any of the powers referred to in paragraph (a) above except its power to make grants or loans;
(c) the appointment of any member of the Executive in question may be terminated by the Secretary of State.

Exercise of
powers by
Passenger
Transport
Authority and
the Greater
London
Council.

(4) Where a person's appointment as a member of a Passenger Transport Executive is terminated under subsection (3)(c) above the Secretary of State may require that Executive to pay to or in respect of that person compensation of such amount as the Secretary of State may determine; and where a person's appointment as a member of the London Transport Executive is terminated as aforesaid the Secretary of State may (without prejudice to the generality of subsection (3)(b) above) exercise the power of the Greater London Council to require compensation to be paid under section 4(4) of the Transport (London) Act 1969.

1969 c. 35.

(5) Any direction under this section shall be given or revoked by a notice in writing given to the council to which it relates; and copies of any such notice shall be laid before each House of Parliament.

Information.

4. Each Executive to which section 1 above applies, each council which is the Passenger Transport Authority in relation to such an Executive and the Greater London Council shall provide the Secretary of State with such information as he may reasonably require for the purpose of exercising his powers under this Act.

Short title, interpretation, commencement and extent.

5.—(1) This Act may be cited as the Transport Executives (External Finance Limits) Act 1981.

(2) In this Act "financial year" means the period of twelve months beginning with 1st April in any year.

(3) This Act has effect in relation to any financial year beginning on or after 1st April 1982.

(4) This Act extends to England and Wales only.

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Transport Executives
(External Finance Limits)

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To provide for the imposition of limits on the amount of expenditure which certain Passenger Transport Executives and the London Transport Executive may defray out of money received by way of grants or loans and, in connection therewith, to provide for controlling the exercise in relation to those Executives of the powers of Passenger Transport Authorities and the Greater London Council.

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15th December, 1981

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