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Prime Minister (1)

\* Agree to legislation on the lines of paras 5-11 in the 1982-83 session?

PRIME MINISTER

\* you may care to read the attached record of MISC 79's Discussion.

MCS 9/7 Yes - but

PUBLIC TRANSPORT IN LONDON AND THE METROPOLITAN COUNTIES

(I fear a no. of issues have yet to be satisfactorily resolved. not)

1 The Ministerial Group on Local Government Organisation and Finance (MISC 79) has considered future policy towards public transport in London and the Metropolitan Counties and, in particular, the possibility of new legislation to regulate the amount of subsidy that can be paid to public transport by local authorities. This minute reports our conclusions and recommends the introduction of legislation in the 1982-83 Session.

The Need for Legislation

2 As you know, the Greater London Council (GLC) have chosen to interpret the judgment given by the House of Lords at the end of last year as meaning that London Transport (LT) must break even in 1983 without subsidy. They say that this will require an increase in fares of 30 per cent in January 1983 and further substantial reductions in services. They are using these arguments to stir up industrial trouble in LT and seeking to blame the law, and the Government for refusing to change it to permit unrestricted subsidy. We shall be in a difficult position politically if we do not legislate; but any legislation must control the level of subsidy that is permissible in order to prevent the GLC claiming a political triumph and reverting to their previous irresponsible policy.

3 The law applying to transport subsidies by the Metropolitan County Councils (MCCs) has also been thrown into uncertainty by cases in the courts. Some councils are paying excessive subsidies, which present a danger to our public expenditure plans and which we need to reduce. Moreover, we cannot justify a laxer subsidy regime for the MCCs than for the GLC.

4 There is, therefore, a strong case for legislation to clarify the powers of both the GLC and the MCCs to subsidise public transport.

The Basis of Legislation

5 If there is to be such legislation it could follow one of two broad approaches.

6 The first is for central Government to prescribe a precise limit, either directly or perhaps through some approach analogue to the external financing limits of the nationalised industries. The second is for central Government to set guidelines, and to require local authorities to produce rational justification for departures from them, but to allow the ultimate decision to rest with the authorities, subject only to challenge in the courts.

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7 Neither approach is free from difficulties. But the balance of opinion in MISC 79 - which all members of the Group were willing to accept - was that the second approach was preferable. Although it offers less certainty that expenditure on transport subsidies will be precisely controlled, it avoids drawing central Government into detailed consideration of, and perhaps ultimate responsibility for, local services and fare levels, and avoids the potentially dangerous precedent of central Government imposing limits on a particular component of a local authority's current expenditure.

8 The Annex to this minute sets out how the new system would work. Some further study needs to be given to the details to clarify the precise role and basis of the Secretary of State's guidance. I should also say that the Group had doubts about the wisdom of relating the legislation too closely to cost-benefit studies. It will be necessary to strike a balance between requiring local authorities to give properly argued reasons for their decisions on subsidy levels and excessive reliance on one particular technique, which is not free from debate or difficulty. These aspects are to be resolved in further discussions between the Secretary of State for Transport, the Secretary of State for the Environment, the Chief Secretary, the Attorney General and the Central Policy Review Staff.

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#### Safeguards Against Irresponsible Behaviour

9 However the legislation is drafted, it would be virtually impossible, without reserve powers, to prevent irresponsible behaviour by a local authority determined to make trouble. MISC 79 agreed that there should be a reserve power enabling the Secretary of State to require, by Order, that the exercise of a local authority's powers in this field should be subject to the Secretary of State's consent, or to exercise the powers himself. Orders would be subject to affirmative resolution procedure.

10 In order to avoid the risk of hybridity, this reserve power would apply to both the GLC and the MCCs.

#### Efficiency and Competition

11 MISC 79 agreed that any new legislation should foster competition and the role of the private sector. It accordingly agreed that the legislation should empower the Secretary of State to direct a local authority to arrange for tenders to be invited for a proportion of transport services and to publish the reasons if the lowest tenders are not accepted. This may not be sufficient safeguard against a local authority, or transport executive, determined to keep the private sector out by subsidies competition; and the Secretary of State for Transport will be investigating the possibility of reducing this danger, for example by setting up an appeals procedure.

#### Further Reforms in Transport in London

12 It may well be impossible to secure the fundamental improvements that are required in LT without removing control of it from the GLC. There may also be advantage in making changes designed to promote greater co-ordination between the services of British Rail and other transport services in London and the South East. MISC 79 will be studying this further. But it is clear that any changes on these lines, which would have implications for the whole future of the GLC, could not be accommodated in legislation in the next Session.

Legislative Programme

- 13 The Lord President of the Council has said that he is willing to accept legislation on the lines discussed in paragraphs 5 to 11 above in the 1982-83 programme, provided that it is short and can be available at the very start of the Session. The Secretary of State for Transport assured MISC 79 that, apart from the points of detail which are to be the subject of the further discussions mentioned in paragraph 8 above, instructions could be sent to Counsel forthwith.

Conclusion

- 14 MISC 79 therefore recommends that legislation on the lines I have described should be introduced in the 1982-83 Session. I should be grateful for your agreement, and that of other Cabinet colleagues, to this course. The Secretary of State for Transport is anxious to make an early announcement of the Government's intentions in order to counter a campaign in favour of their "Fares Fair" policy which the GLC are expected to launch on 20 July. It would be most helpful, therefore, if any comments could reach me no later than Thursday, 15 July.
- 15 I am sending copies of this minute to other members of the Cabinet, the Attorney General, Mr. Sparrow and Sir Robert Armstrong.

8 July 1982

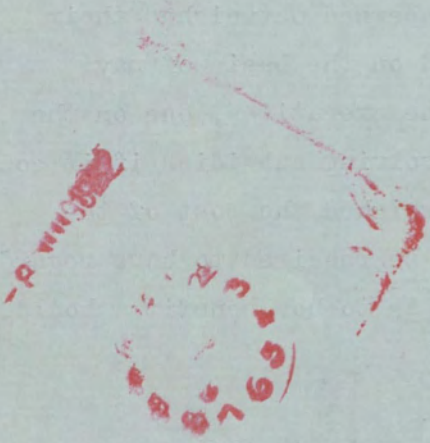
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## NEW LEGISLATIVE BASIS FOR SUBSIDIES TO PUBLIC TRANSPORT

The legislation would provide that London Transport and the Passenger Transport Executives were under a duty to provide public transport services, within the resources available, so as to achieve the greatest benefit for those who might use them. It would enable the Greater London Council and the Metropolitan Counties to subsidise public transport, but only if the benefits of the subsidies concerned outweighed their costs. Whether this was so would be assessed on the basis of a comparison of corporate plans, prepared by the executives, one on the basis of breakeven, and alternative plans involving subsidies if it could be shown that the benefits to passengers <sup>or others</sup> outweighed the cost of the subsidies. Executives and authorities would be required to have regard to guidance issued by the Secretary of State as to how benefits should be evaluated and compared with costs.

2. Even if the proposed amount of subsidy could be justified in terms of cost-benefit analysis it might not be consistent with the need to contain public expenditure. The legislation would therefore require authorities to have regard to guidance from the Secretary of State on what he considered to be an appropriate level of subsidy, taking account both of general economic conditions and of the particular circumstances of the authority.
3. The authorities would then inform the executives how much subsidy they intended to pay in the following year. The duty of the executive would then be to break even, taking account of the subsidy.
4. Authorities would retain ultimate discretion regarding the amount provided in subsidy, but would be open to legal challenge against excessive expenditure. Substantial departure from the guidance issued by the Secretary of State would have to be backed by clear and strong justification. Moreover, the authorities would still have to consider their fiduciary duty to their rate payers, reinforced by the pressures of the block grant, which would not be affected by the legislation.

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	DES	WO	LPSO
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From the Private Secretary

12 July 1982

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Dear John,

Public Transport in London and the Metropolitan Counties

The Prime Minister was grateful for the Home Secretary's minute of 8 July about the conclusions of the Ministerial Group on Local Government Organisation and Finance (MISC 79) on public transport in London and the Metropolitan Counties.

The Prime Minister agrees that legislation on the lines set out in paragraphs 5 - 12 of the Home Secretary's minute should be introduced in the 1982/83 Session. She has noted that a number of issues still remain to be resolved - in particular those about the extent to which the legislation should be tied to cost-benefit studies.

I am sending copies of this letter to the Private Secretaries to the other Members of the Cabinet, Jim Nursaw (Attorney-General's Office), Gerry Spence (CPRS) and David Wright (Cabinet Office).

Yours sincerely,

Michael Scholar

John Halliday, Esq.,  
Home Office.

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