

K01158

PRIME MINISTER

To note Policy Unit advice

AT 18/6

Liverpool City Council(Minute to you of 17 June 1985 from Secretary of State
for the Environment)

BACKGROUND

MISC 109(85) 2nd meeting on 26 March 1985 considered the line the Government should adopt towards rate limited authorities and Liverpool. That meeting agreed that particular care should be taken to avoid any impression that the Government was prepared to step in to protect irresponsible authorities from the consequences of their actions, for example by providing extra finance or by introducing Commissioners.

2. The budget Liverpool City Council adopted on 14 June would require a City rate of £241.9 million (an increase in the total rate of 83 per cent) to finance it. Instead Liverpool City Council resolved a rate increase of 9 per cent raising only £125 million and leaving a deficit of £117 million. There is no evidence that the Council will monitor expenditure against income during the year to ensure spending keeps in line. Because the rate is insufficient to meet estimated expenditure the belief is that it would be found unlawful if brought before a Court.

3. From 18 June the Government Broker will no longer approve any temporary loans to Liverpool or Lambeth; and the market and the Public Works Loan Board are unlikely to wish to lend to Liverpool City given the potential deficit. The Treasurer of the City Council believes he may have cash flow problems by the end of June. The financial collapse of the City is therefore probable before the end of the year, and possibly sooner rather than later unless the Council makes a new, legal, rate. This it can only do if the present rate is quashed by a Court on grounds of insufficiency.



Proposals

4. In his minute Mr Jenkin sets out three options for action in the light of Liverpool's decision to set a low rate and a deficit budget -

(a) to refuse to be drawn by the Council and to leave action to a local ratepayer and the Auditor; or

The rate payer would seek equivalent action to the AG

(b) to ask the Attorney General to seek judicial review of the Council's resolution, quashing the rate and making an Order against the Council to make a properly balanced budget and rate; or

(c) to negotiate with the Council and provide special grant or special borrowing consent.

5. Option C would mean a climb-down and a U-turn in Government policy which Mr Jenkin rejects forthwith. He believes the two other options are finely balanced, but recommends (b).

MAIN ISSUE

6. The main issue for decision is -

whether to leave action to a local ratepayer or the auditor, or whether the Attorney General should seek judicial review of Liverpool's rate decision;

Other issues are -

whether to pay rate-dependent grants now that Liverpool has set a rate;

whether further attention should be given to contingency arrangements;

whether potential Commissioners should be approached in anticipation of service collapse.



Whether the Attorney General should seek judicial review

7. The arguments in favour are -

(a) it would show the Government's determination to nip in the bud deficit budgeting by local authorities;

(b) it is the only way to ensure that the Council have a further opportunity to make a legal rate (there is no evidence as yet that anyone else, eg. a local ratepayer, is prepared to apply to the courts);

(c) it might prevent financial collapse and the need for Commissioners - but there is no guarantee.

8. The arguments against are -

(a) the provocative action of Liverpool City Council notwithstanding, this would bring the Government straight away into a major political dispute with the Council; the Government would inevitably be accused of seeking to topple the Council for political reasons; (Government would be seen as intervening, before pressure developed in Liverpool calling for Government intervention.)

(b) the possibility of financial collapse and the eventual need to appoint Commissioners would remain;

(c) there is no guarantee the Council would set a new higher rate, even if it was given the chance;

(d) even if it did set a new higher rate, it would make sure the blame lay with the Government.

9. It seems likely that if either the Labour Group or anyone else wanted to set a different rate, then a local individual could be found to apply to the Court. The issue of whether the Attorney General should apply to the Courts seems therefore primarily to turn on the advantage to the Government of being

Have heard
have they
tried to find
one?



seen to take action at this point. The pressure on the Labour Group may be stronger if the need to find their next move is left very clearly in their hands. The effect on Lambeth (the other remaining authority yet to rate) also needs to be considered.

Payment of Grant

10. So far this financial year, the Secretary of State for the Environment has not paid those grants which depend on a rate being set (eg. rate rebates, disabled rate relief, etc). Now that a rate has been passed, a decision needs to be taken on the propriety of making these grants, given the doubt about the rate's legality.

11. To pay these grants would ease the financial position of the City Council, would postpone the financial collapse and would buy time. But paying them might seem inconsistent if the Government were simultaneously challenging in the Courts the legality of the rate that had been set, and might conceivably prejudice the Government's legal argument that the rate was illegal. If, however, the Government does not initiate Court action forthwith, the case for withholding these grants is undermined.

Contingency Preparations

12. Mr Jenkin suggests that the contingency preparations should be examined again, because there is no guarantee against financial collapse and the need to appoint Commissioners. At MISC 109(85) 2nd meeting on 26 March 1985, Mr Jenkin said that contingency planning could not be taken much further without consulting outside bodies. You may wish to ask Mr Jenkin if he feels outside consultation is now necessary and, if so, what kind of consultation he has in mind.

Possible Approaches to Commissioners

13. Mr Jenkin suggests that the Government should shortly be approaching possible Commissioners in case there is an early



collapse. MISC 109(85) 2nd meeting on 26 March agreed that, at that time, no approaches should be made to possible Commissioners. It is obviously desirable to avoid the Government's plans being public at too early a stage (the same argument applies in respect of contingency arrangements generally, Paragraph 13 above) - but it may also be difficult, in practice, to find a sufficient number of suitable Commissioners (which points towards timely approaches). The collapse of services and the introduction of Commissioners may not follow too closely on financial difficulties. But time is beginning to run short and it might be wise to put approaches to possible Commissioners in hand soon.

Commissioner Legislation

14. Mr Jenkin says that Commissioner legislation might be needed during the summer or early autumn - possibly during the recess. Because events in Lambeth are uncertain as yet, it is too soon to decide whether the legislation (if needed) should cover Liverpool only or be more general. Unless the legislation is passed before the end of July there must be some possibility that Parliament might have to be recalled during the recess to deal with it. Decisions on these points may be easier to take as events become clearer in the next few weeks. But Mr Jenkin should not delay on bringing forward any outstanding policy issues on Commissioners.

HANDLING

15. I suggest that you deal first with the major issue for decision - whether the Attorney General should apply to the courts - and discuss other issues (payment of grants, contingency preparations and possible approaches to Commissioners) afterwards.

16. You will wish to invite the Secretary of State for the Environment to introduce his minute. All members of MISC 109 are likely to wish to contribute. The views of the Attorney General will be particularly relevant.

17. Once a decision has been taken on the main issue, you may



wish to invite the Secretary of State for the Environment to speak to the other points raised in his minute - whether rate-dependent grant should be paid, and his suggestions for a further look at contingency arrangements and possible approaches to Commissioners. The Attorney General and the Minister of State, Treasury will have views, and other Ministers may well wish to contribute.

CONCLUSIONS

18. You will wish the Group to reach conclusions on -

- (i) (a) whether the Government should leave any action to a local rate payer and the District Auditor; or
 - (b) whether the Attorney General should seek judicial review of the Council's resolution, the quashing of the rate and the making of an Order against the Council to make a properly balanced budget and rate; or
 - (c) some other course of action.
- (ii) Payment of Grant - whether the Government should resume payment of grants dependent on a rate being set - or not;
 - (iii) whether more work needs to be done on contingency arrangements, and whether such work should involve consultation outside Government;
 - (iv) whether the Secretary of State for the Environment should shortly approach possible Commissioners;

and to note

- (v) that Commissioner legislation might be needed during the summer or early autumn.

C J S BREARLEY

18 June 1985



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CONTROL