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RBS 11911

cc PS/SOS (L)
PS/Dr Boyson (L&B)
PS/Mr Scott (L&B)
PS/Lord Lyell (L&B)
PS/PUS (L&B)
PS/Mr Bloomfield
Mr Brennan
Mr Stephens
Mr Chesterton
Mr Elliott
Mr Innes
Mr Gilliland
Mr Spence
Miss Elliott
Mr McConnell
Dr Mawhinney
Mr Ehrman

Secretary of State

DISTRICT COUNCIL RATES

1. Within the past few days, my officials have been in contact with a number of Unionist Councillors and local authority officers to assess current developments on the striking of rates by District Councils. As a result of these contacts, I have been considering the tactics we should employ for the next few weeks.
2. You will be aware that there is a statutory requirement on Councils to strike their rates, and to authorise expenditure in respect of 1986/87, by 15 February. This timetable is necessary to facilitate the issue of rate demands to all ratepayers, to help DFP set the Regional Rate, and to provide the necessary finance for Councils for the next financial year.
3. All 18 Unionist controlled Councils are currently continuing their policy of suspending or adjourning normal business, in protest against the Anglo-Irish Agreement. You will recall that this protest action began in September 1984 about the presence of Sinn Fein on Councils.
4. This policy does not meet with universal approval however among all Unionist Councillors particularly a number of Official Unionists. I understand that the Lord Mayor, John Carson, supported by several other Unionist Mayors has convened a meeting of Mayors/Chairmen in Belfast on 16 January to discuss the current strategy and to consider possible ways of getting District Councils back in operation again. It is likely that the Mayors may request a meeting with the Prime Minister and there is a suggestion that, following the by-elections, the Official Unionist leadership may be prepared to approve of such a meeting.
5. As yet no policy guidance has issued from the Joint OUP/DUP Working Group as to whether Councils should strike District Rates. The DUP seem intent on default, to cause major disruption for Government, but there are a number of dissident voices within the Official Unionist party who believe that Councils should not default. There is also however a strong view among some Councillors that default action, which causes Government to

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intervene to strike a rate is an acceptable and defensible form of protest. Their reasoning is that Government would be faced with all the consequences of the rates so struck (and this may be important if a Rates strike materialises later) but the Councillors would still remain in business to continue their protests using Councils (and Council facilities) as public platforms. They draw comfort from the fact that the present legislation on default powers does not provide for appointment of Commissioners to replace elected Councillors.

6. What is quite clear to me however is that Unionist Councillors neither seek nor contemplate the immediate abolition of existing Councils and their replacement by Commission if they fail to strike a rate. This possibility is only now beginning to be seen by Councillors and Clerks and I believe that this threat could be a major weapon for Government in the next few weeks.
7. At both Departmental and Inter-Departmental level we have been addressing contingency plans for the post-election period. I believe that cards carefully played by us before 15 February could minimise our intervention in District Council affairs and buy some more time as part of our wider political strategy.
8. If Councils default, we have 2 possible remedies. The first is to use default powers in existing legislation which would, after appropriate action (including a direction to Councils to remedy the default), result in DOE striking these rates. This would however lead to the situation described at the end of paragraph 5 above. An alternative remedy would be to take the necessary powers, by an Order-in-Council (under the emergency procedure), to abolish these Councils and replace them with Commissions. This would have to be affirmed by Parliament within 40 days but absence of normal business in Councils for 5-6 consecutive months, failure to strike rates and possible further defaults would certainly justify such a course of action. The timing of the introduction of such an Order would be of crucial importance however in light of the information above, and there is a very real possibility that its existence would in itself be a major factor in determining Unionist policy towards fixing rates without the need to use it.
9. I think it imperative that we encourage any possible action by Mayors and Councillors which might help Councils resume normal business. I suggest therefore that:-
 - (a) We facilitate any request for Mayors/Chairmen to meet the Prime Minister. This could be an important step to help get Councils "off the hook".
 - (b) In the week following the by-elections we strengthen the signals to Councillors and Council staff from Minister and Departmental officials that they should not take for granted that the Government powers to deal with this situation were limited to the present legislative provisions.
 - (c) At the end of the first week in February, if a number of Councils have adjourned for a further month (which would mean that they would clearly not be intending to meet to strike a rate before 15 February) we should consider making the Order-in-Council at paragraph 8. We

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would announce publicly that we were doing so as a contingency step which was justified by our need to make certain that we had adequate powers to ensure the continued provision of local services. This would still provide an opportunity for Councils to reconsider defaulting by holding a special meeting before 15 February.

- (d) Post 15 February, if a number of Councils still failed to strike a rate, we would deal with the situation by the present default powers. There would be a stronger possibility that a Council in default might comply with a direction to remedy the default when they are aware that the Government has taken powers to appoint Commissioners to replace elected representatives.
 - (e) While the option of appointment of Commissions would be held in reserve, it would be available for use in other instances of default and its existence could be a deterrent for major defaults.
10. Should we decide to do something about Sinn Fein at our meeting on 16 January, it would be worth considering whether the timing of any announcement could helpfully be phased around the same timescale.
 11. If you thought it helpful, perhaps we could discuss this soon so that the necessary arrangements can be made.

A handwritten signature in dark ink, appearing to read 'Richard Needham', written in a cursive style.

RICHARD NEEDHAM

15-January 1986.

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