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File



2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

PERSONAL

My ref:

Your ref:

7 February 1984

Dear Andrew

LIVERPOOL

I would be grateful if the attached annexes A and B could be substituted for those attached to my Secretary of State's minute of 3 February to the Prime Minister. They are a more up to date assessment. Those circulated earlier should be destroyed. Annexes C and D remain unaltered.

Copies of this letter go to Hugh Taylor, Richard Mottram, Callum McCarthy, Elizabeth Hodgkinson, Steve Godber, John Gieve, Miss D Wickins and Richard Hatfield.

Done AT 8/2

Yours sincerely

John Ballard

JOHN BALLARD
Private Secretary

Andrew Turnbull Esq

PERSONAL AND CONFIDENTIAL



Minister of State

Department of Employment
Caxton House Tothill Street London SW1H 9NF
Telephone Direct Line 01-213 5949
Switchboard 01-213 3000

David Barclay Esq
Private Secretary (Home Affairs)
Prime Minister's Office
10 Downing Street
London
SW1

Pa
Dues
7/2

6 February 1984

Dear David

Thank you for your letter of 26 January. As you know my Minister was delighted to hear that the Prime Minister was attracted to the idea of visiting a Community Programme Scheme, and at once asked me to be in touch with you to identify a suitable opportunity.

On Mr Morrison's advice, we agreed that Merseyside would not be the best occasion to do so, but you kindly offered as an alternative to make available some time from the Prime Minister's visit to Warwick on 24 February.

Although there are many excellent Schemes some way from Warwick, I am afraid that none of the Schemes in the immediate vicinity are suitable for the Prime Minister to visit. I am grateful for your further suggestion that some part of Saturday 7 April might be made available in the Penzance area, and after making careful and discreet inquiries I will be in touch with you again.

I hope this is helpful.

Yours sincerely

Mark Howdle

MARK HOWDLE



PRIME MINISTER

LIVERPOOL

1. At our meeting on 14 December I undertook to provide a fuller note on how a crisis might develop in Liverpool and what our response might be.

LIVERPOOL'S FINANCES - THE LATEST POSITION

2. Members of the Labour Group continue to threaten to rate inadequately in 1984/85. Some Labour members of the Council may not wish to be party to such illegal action, and the overall Labour majority is only 3 (51 Labour, 30 Liberal, 18 Conservative). We should not be too optimistic however that defections from the Labour Group will solve the problem.

3. We have not of course been able to get authoritative figures from the Council on their finances. Appendix 1 of Annex A summarises Liverpool's financial position on the best information available to the Department. For 1984/85 their GRE is £198m and their target £216m. The budget set by the Liberals at the beginning of 1983/84 of £219m assumed that there would be significant savings, but these were never identified. This budget was abandoned by the incoming Labour Group elected in May 1983 who decided not to find savings; indeed they have marginally increased expenditure. We now expect outturn expenditure in 1983/84 to be about £230m. (We assume that the additions to the Liberal budget will be financed by the use of balances).

4. A standstill budget in volume terms for 1984/85 (revaluing the likely outturn in the current year by only 5% inflation) would require expenditure of about £240m, which in turn would require a rate increase of about 60% or more to finance it. A growth budget which allowed for carrying out the Labour Group's political commitments such as rent reductions - see paragraph 2 of Annex A - would probably be over £245m requiring



a rate increase well in excess of 60% if a deficit were to be avoided.

5. The Labour Party have been discussing, in public as well as in private, a proposal to make a much lower rate which, if declared, would inevitably lead to financial collapse. Even if the majority group fail to make an illegal rate, it is possible that no majority will be available for any rate; this could also lead to serious problems including perhaps resignations of councillors or Party Groups (see Annex A).

6. Three things stand out:-

(a) The history of political division in Liverpool has meant that the full effects of the Government's block grant and target/holdback policies have neither been appreciated nor provided for. No attempts have been made to increase efficiency - on which Liverpool's record is poor. The situation now is therefore a very serious one whatever kind of administration is in control.

(b) Even a standstill budget would require a level of rate increase (about 60% or more) which would cause grave political difficulty for the Council, of whatever political persuasion.

(c) If the Council budget for carrying out their Manifesto commitments and then make an inadequate rate which does not allow for holdback, then they would be heading for financial collapse. It is possible that in these circumstances a moderate majority would emerge and be able to take power; they would need to make cuts in services in order to balance the budget. On the assumption of a 1984/85 growth budget of over £245m it would be necessary for a moderate majority to cut that budget by over £18m (nearly 7½%) if a deficit were



to be avoided. this would represent a real reduction in spending levels (after deleting proposals for growth in the budget) of about 5½% in less than a single year. This could well be impossible.

THE GOVERNMENT'S RESPONSE TO A CRISIS

7. We must make contingency plans based on the assumption that the City Council will take illegal action - either by setting an inadequate rate or by failing to rate at all. There is great uncertainty about how events will develop in Liverpool, or at what speed. Annex B sets out the main possibilities.

8. Between now and about mid-March there will be a difficult period when postures will be struck but no decisions will have been reached. We know that the Policy and Resources Committee is meeting at the end of February to consider the 1984/85 budget and rate. It is most unlikely that any decisions would be taken then - Liverpool usually rates late - but it will be important that councillors should at that stage be aware of the possible consequences of illegal action. I understand that the Chief Executive is fully alive to his responsibilities in this regard and will take the necessary action in good time.

9. What happens from mid-March onwards depends on what rating decisions - if any - are taken by the Council. I am sure that we must, at least initially, aim to resolve any problems that arise within the existing framework of existing local authority law, audit and finance. If the City Council rate illegally they should (as soon as illegality is clear) be challenged in the Courts - either by a ratepayer or, if appropriate, by the Attorney General acting ex officio - so as to limit the disruption and financial damage. This could of course ultimately lead to imprisonment of councillors for contempt if they refused to obey the Court's directions. The normal processes of audit and surcharge of councillors



would also follow automatically in the longer term, perhaps leading after about a year to disqualification.

10. A more probable course of events would be for the council to fail to rate for some little while. As is set out in paragraph 2 of Annex B, there could be doubt about the precise point of time at which failure to make a rate becomes illegal.

If such a point is reached, then events could follow the course in paragraph 9 above. A further possibility might be that after the initial failure to make a rate and before the failure reaches the point of illegality, a moderate majority might emerge willing to try to act within the law and balance the books. Such a majority would obviously need time to agree on a package of cuts and on the consequential rating decision. The later such a moderate majority emerges, the more difficult it will be to make the necessary spending cuts so that they begin to take effect within the year; correspondingly, the larger the rate increase would have to be to avoid illegality. If it became apparent that there was a possibility of a moderate majority taking the necessary steps to keep within the law and balance the books, it might be necessary for the Government to consider buying time for them by bringing forward payments of RSG to which Liverpool would be entitled. This could however be very difficult since, although it would in theory involve no extra financial commitment, it would clearly be seen as bailing the council out. Nevertheless, it remains an option which may have to be considered at the appropriate time.

11. If the Council rate illegally (or fail to rate at all) there is bound to be a period of growing crisis pending the outcome of legal proceedings. It is possible that during this period crucial local authority services might simply be not performed, for example, if the officers refuse to sign cheques. In these circumstances we would have to look to the voluntary organisations, outside as well as inside Liverpool, and the Services to help the most vulnerable groups (eg the frail elderly and children in care).



12. While we must do all we can to avoid putting in Commissioners if possible, alternative courses of action have serious disadvantages. We might legislate to make a special grant available in one form or another to Liverpool; but this would reward irresponsibility and tempt others to follow suit. We could legislate to empower the Council to make a supplementary rate later in the year, but this may not be politically tenable to an embattled moderate majority - or indeed to the Government. Finally we might approve temporary borrowing in anticipation of future revenue under existing legislation. It is difficult to predict at this stage whether such an offer would prove acceptable to a moderate Council because it would involve an eventual rate higher than would otherwise be the case to repay the borrowing; but it might be. We would have to consider in such circumstances what help the Public Works Loan Board, as "lender of the last resort", might give.

13. If it were clear that no group of councillors was able or willing to run the authority on a sound financial basis we would as a last resort need to consider introducing legislation to appoint Commissioners to run the City. The legislation would ensure that the Commissioners had the necessary rating powers to restore the City's finances on to a sound footing. My Department is well advanced on the preparation of contingent legislation and is beginning to consider the detailed administrative implications and the selection of Commissioners.

EFFECT OF CRISIS IN LIVERPOOL ON CREDITWORTHINESS OF OTHER AUTHORITIES

14. Since there is no precedent for major default by a local authority in this country, we can only speculate at this stage on its possible effect on the market. A brief note is at Annex C.



IMMEDIATE ACTION

15. I see no need at present to alter our earlier conclusion that we should take no early action to involve ourselves in developments in Liverpool. The councillors will be fully briefed on their own legal position. An attempt by us at this stage to intervene would be likely to stiffen the resolve of the militants rather than to weaken it. The Council have asked, as have many other councils, for a meeting to discuss the RSG Settlement. It would be impossible to refuse such a request and I have therefore agreed to meet them.

16. It is important however that their political resolution to hold their present course should be undermined before they take irrevocable budget decisions. Any relaxation of their present hard line would help to moderate the scale of a financial crisis, and could make all the difference to our ultimate ability to get the City back on course without the need for Commissioners. The most telling political argument is the severe hardship that would result for the most vulnerable groups within Liverpool, and for the Council's own staff, as an inevitable consequence of a decision to rate unlawfully. The media are beginning (but slowly) to understand these problems, and perhaps the case will be adequately developed without any need for action by us. We cannot however afford to wait too long. The budget process in Liverpool will be gathering momentum from about the middle of February, and if the full implications have not become publicly apparent by then we shall need to consider whether we should take the initiative to bring home to all concerned (ie the staff, the public in Liverpool etc) the perils of the course on which the Council is bent. One possibility would be to provide unattributable Press briefings aimed particularly at illustrating the consequences of breakdown for local residents.

17. While I am sure that we must keep our distance at this stage, 'I do not believe that the Government could stand aside right up to the breaking of a crisis without putting itself



in a politically untenable position. But the moment and method of intervention, if it comes, will be extremely difficult to judge, because there is no clear legal or financial trigger for Government action.

18. By way of preparatory action at the present time, I propose that we formalise the existing arrangements for inter-departmental consultation at official level and instruct officials to meet regularly under my Department's chairmanship to review the position in the light of the latest reports from sources in Liverpool. I have already asked my officials:-

- i. To monitor prospective decisions by Whitehall Departments that might create difficulties (see Annex D for current report).
- ii. To examine whether there are any Government financial programmes which could be adjusted within normal groundrules to assist the finances of Liverpool at an appropriate time.
- iii. to examine the practical implications of temporary use of the Services to protect vulnerable groups in the event of a breakdown of services before a moderate Council emerges or Commissioners are put in.

19. I am sending copies of this minute to Willie Whitelaw, Michael Heseltine, Norman Tebbit, Keith Joseph, Norman Fowler, Peter Rees, Patrick Mayhew and to Sir Robert Armstrong.

PJ

P J

3 February 1984

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ANNEX A

LATEST POSITION IN LIVERPOOL

1. Leaders of the majority Labour group continue to threaten to rate inadequately in 1984/85. A campaign unit has been created within the City Council to seek support for the majority group's position within Liverpool and from other local authorities and organisations. This has the support of the local NALGO branch.

2. The objectives remain:

- no redundancies from the Council workforce;
- no privatisation of council services;
- expanding public services and creating jobs;
- securing greater resources for the City from Government.

A combination of these manifesto commitments, the weak budget position inherited from the Liberals, and the effect of targets/holdback has placed the Labour Party in what they believe to be an impossible position.

3. An attempt has been made through the local Labour Party to put pressure on the neighbouring districts of St. Helens and Knowsley to follow Liverpool's lead, but apparently without success. Merseyside County Council does not appear to be under pressure to rate inadequately.

4. There are some hopeful signs.

(a) There is clear evidence that some Labour Councillors would not support illegal action. Councillor Orr has declared on television that he would not support a resolution proposing an invalid rate. As many as 6 other Labour Councillors might support him. Labour's overall majority on the Council is 3. The total number of councillors is 99. 51 are Labour; 30 are Liberal; and 18 Conservative. The next Council elections are due in May.

(b) The Council's officers will be providing Councillors at February's meeting of the policy and Resources Committee with advice (cleared with Counsel) on their duties in relation to rates and budgeting.

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(c) It is not clear what action the Liberals on the Council will take. They might propose a rate increase in line with inflation against a budget which proposes unallocated and unspecified savings. With defections from the Labour group and Conservative support such a resolution could be passed. However the Liberals might be deterred by the size of the savings that would need to be found, and the political difficulties involved in the run-up to the May elections.

5. It seems unlikely that the rate increase could be less than about 60% unless there were major cuts in services. This will make it difficult for the opposition parties to agree a rate and budget even if the majority party is undermined by defections, and this could result in no rate being declared at all. The unattractiveness of the options might lead members of either the Liberal or Labour parties to resign rather than face the problems.

6. Much would turn on the size of reductions and rate increases which a moderate majority would think technically possible and politically feasible, especially with the May elections imminent; and the extent to which they might regard temporary borrowing as an acceptable means of bridging any deficit gaps, given that such borrowing would have to be recouped by an additional rate increase in a subsequent year.

7. A detailed note on the possible financial position of Liverpool next year is attached at Appendix 1.

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APPENDIX 1

LIVERPOOL'S FINANCIAL SITUATION

1. The following paragraphs set out the Department's current assessment of Liverpool's financial position; but it is necessarily based on limited information. A full assessment could only be made in discussion with Liverpool's officers.

2. The Labour majority inherited from the Liberals a rate that assumed significant savings during 1983/84 leading to a budget of £219m. Liverpool's Grant Related Expenditure for 1984/85 is £198m. Its target - any expenditure in excess of which will result in grant holdback - is £216m.

3. Labour abandoned the search for savings, and instead increased expenditure, making use of balances, to an estimated £230m.

4. To maintain expenditure in 1984/85 at the 1983/84 level (without any further increase to meet the Labour group's political commitments such as rent reductions - see paragraph 2 of Annex A) the rate will have to be increased beyond its current level to meet:

- the increase in the level of expenditure that was paid for during 1983/84 by using up balances;
- the holdback for 1984/85;
- normal cost inflation.

5. Taking account of these factors, even a "standstill" budget would be about £240m and would require a rate increase of about 60% or more. (The increase in the County precept - which is likely to be large - would be additional to this). Liverpool's current general rate poundage is 154p - this compares with an average of 143p for all metropolitan districts but is lower than Newcastle (216.3p) and Manchester (204p).

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6. The Labour group's threat is that they will not rate for holdback. If an illegal rate were set on the basis of a standstill budget and no provision for holdback, the rate increase required would be only about 22%. If the council were subsequently required to adjust its expenditure to enable it to be met from the product of that rate plus the RSG entitlement, it would need to reduce cash expenditure by about 6%. This would result in a budget of £225m - lower than the cash expenditure for the current year. A reduction of this magnitude - which would obviously produce real term cuts - might be very difficult to achieve in one financial year even if planning for such a reduction began now: and of course the later such reductions are attempted, the less can be achieved in the forthcoming financial year.

7. This is only one of many possible outcomes. If the Labour group budgeted for real growth to cover its commitments to provide more jobs and cut rents - at, say, £245m - the required lawful rate increase would be about 80%. A rate increase on this assumption which did not cater for holdback would be about 29% and the cuts subsequently required to balance the books 7% plus. As this example makes clear, the percentage level of cuts required to balance the books rises slowly as expenditure increases because of the rapid accumulation of holdback which is subsequently cancelled out.

8. If a moderate majority sought to make economies, but felt unable to strike a rate which balanced the books because it would involve too big a rate increase in one year to be politically tenable, then one answer possible under existing statutory provisions would be for the Secretary of State to approve temporary borrowing to fill the gap. But this of course would eventually have to be recouped by a rate increase in a subsequent year higher than would otherwise be the case, e.g. a rate increase of 8p (5% of the present gross rate poundage) would be needed to repay a short term loan of £5m borrowed at 15% for six months (½p of such an increase would be to meet interest payments).

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ANNEX B

DEVELOPMENT OF A CRISIS IN LIVERPOOL

1. Unless the majority group reverse their present policies, the development of a financial crisis of some severity in Liverpool next year seems very likely, though the precise course of events cannot be predicted at this stage. Already the City Council is falling behind its traditional pattern of budget making. Between now and the beginning of next financial year the position could become very confused as parties align or re-align to consider the options. From this confusion action which may be unlawful could emerge - either by design or because the parties are unable to agree on an acceptable course.

2. In normal circumstances a rating authority such as Liverpool would finalise its budget and strike a rate in March. The General Rate Act 1967 does not stipulate a time by which a rate must be made (see S.2 - every rating authority shall "from time to time" make a rate). The structure of the relevant provisions suggests that the rate must be made within the financial year to which it relates, i.e. a period of 12 months beginning 1 April. A cause of action for breach of statutory duty would arise when the estimated expenditure, or contingencies of the council cannot be met by any means other than raising a rate. Depending on the circumstances of the authority it could be some way into the financial year before this would arise particularly if the council had substantial reserves, or had means other than raising a rate to meet their estimated expenditure or contingencies.

THE SEQUENCE OF EVENTS

3. The sequence of events could take a number of different turns. Much will depend on the attitude of the court. Remedies to compel the performance of a statutory duty are discretionary and the courts have shown reluctance to dictate how a local authority should conduct its business in the absence of illegality.

The Council fails to make a rate

A. A councillor, ratepayer (or the Attorney General acting ex officio) could seek an order from the Court directing that the Council make a rate to meet their estimated expenditure or contingencies which cannot be met by any means other than raising a rate. The council comply with the order.

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- B. As (A) but the court order is not complied with. If this was due to deliberate obstruction those members responsible could be proceeded against for contempt and be subject to fines or imprisonment. If there was individual or mass resignation of members following the order it could not be enforced. There would have to be fresh elections. Depending upon the behaviour of members there could be a quorum ($\frac{1}{2}$ of the council) sufficient to fix a budget and make a rate.
- C. As (A) but in complying with the Court's order to make a rate, the council make an inadequate one, i.e. one which will not meet their estimated expenditure or contingencies which cannot be met by any means other than raising a rate. The consequences of this are the same as if the council had set an inadequate rate in the first place and are covered at (D) below.

The Council makes an inadequate rate

- D. Under the legislation which abolished supplementary rates, a substitute rate can be no higher than the original rate even if the original rate is subsequently declared invalid. In this situation it is possible that the court would declare the budget unreasonable or quash the budget resolution but this is a novel situation and much will depend on the attitude adopted. The problems of enforcing any order are the same as in (B) above. The Council would have to budget according to the available revenue.

4. Under (A) and (B) above, it will be open to the Council to adjust both the rate and budget to get their income and expenditure into balance. Under (C) and (D), however, this would have to be achieved solely by cuts. If the majority group rated on the basis they have threatened, cash cuts of over 7% would have to be achieved in less than a single year.

TIMING OF EVENTS

5. A range of unpredictable political legal and financial issues will affect the timing of any crisis.

6. There are major political uncertainties. There may not be a moderate majority in Liverpool prepared to combine to make a lawful rate/budget in the face of the political

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odium that cuts and high rate increases would involve. Liberal/moderate Labour councillors might prefer to resign. Faced with a court order to make a rate or reduce its budget, the Labour militants might resign rather than implement the required cuts. Further uncertainty is created by the run-up to the May elections and their potential outcome.

7. Particular legal uncertainties include:

(i) The difficulty of establishing breach of the duty to rate.

(ii) The attitude of the court and the efficacy of enforcing court orders.

(iii) The position of the auditor who can take action for surcharge and disqualification where loss has been incurred or deficiency caused by wilful misconduct, e.g. interest run up on short term borrowing for expenditure which could not be met by other means by reason of failure to make a rate.

8. If the council were to fail to make a rate for a precept or failed to pay a precept, it would be open to the precepting authority to enforce the payment. Irrespective of enforcement, interest would be payable on the amount of the unpaid precept.

9. The speed at which the underlying financial crisis develops will depend on the size of any rate made and on details of the council's cash flow which are not at present known to us. The pattern of major debt repayments and the tolerance of creditors will be important: a crisis could develop very quickly if concern about the financial probity of the council led creditors to seek to recover their money (this could have wider ramifications, discussed in Annex C). The reaction of the City's bankers, Barclays, will be critical, but if the Government is to keep at arm's length from the problem it cannot approach the bank.

10. Another critical factor will be the attitude of officers who are vulnerable to action by the auditor in the same way as members. It has been suggested that they may seek

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a court order of mandamus to force the council to rate or to balance its rate and budget (we are aware of one Chief Officer of another authority who has said that he would do this if faced with the problem). It has also been suggested that officers might refuse to process rate demands based on an unlawful rate though latest information on officers' attitude to this, based on legal advice they have obtained, indicates that they probably won't do this. More probably they might refuse to authorise payments on behalf of the authority if it were clear that there would not be sufficient revenue to meet commitments. Legal advice from Counsel (Robert Alexander) was that proper officers could continue to write cheques on behalf of the authority if there were funds to meet them whether or not any (or an inadequate) rate had been made, provided that they were acting under the authority of the Council or a Committee. But he considered that there might be risks to officers in incurring fresh commitments on behalf of an authority when there were grounds for thinking that the obligations could not be met: it is difficult however to draw the line between continuing commitments and fresh commitments. Officers might be vulnerable under Section 19 for incurring unlawful expenditure unless they could satisfy the Court that they had acted reasonably. Councillors might be prepared however to take this risk on themselves and authorise payments directly, so extending the operation of the authority.

11. Depending on how these factors combine, a crisis might develop very quickly, or steadily over a period. If the crisis took some time to come to a head, the ultimate cost of restoring the finances of the council would be greater and it would be less practicable to look to cuts in services to provide the necessary funds.

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ANNEX C

FINANCIAL BREAKDOWN OF LIVERPOOL CITY COUNCIL: EFFECT ON CREDITWORTHINESS OF OTHER LOCAL AUTHORITIES

1. Major default by a local authority is unprecedented and we cannot be certain of its effect on the ability of other local authorities to borrow. Scottish experience in relation to Lothian Council suggests, however, that the market, perhaps after an initial flurry, can be expected to take the Liverpool "threat" in its stride. While the ability of other authorities to service their own debts would be unaffected by default itself, market confidence might be shaken with a consequent rise in interest rates and the market becoming more discriminating in its attitude to local authorities classed with Liverpool.

2. Short of sending in Commissioners, it appears that a Government response must be confined to statements stressing the uniqueness of Liverpool's predicament and the continuing soundness of other local authorities.

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ANNEX D

MAJOR ISSUES, INCLUDING GOVERNMENT DECISIONS, AFFECTING LIVERPOOL

MSC COMMUNITY PROGRAMME

1. In November, the MSC imposed a moratorium on community programme schemes because there was a serious risk that they would breach their cash limit. In Liverpool, only 200 of 650 agreed places on CP funded schemes had by then been filled. The City Council had been relying on the schemes to meet its political commitment to provide jobs.

2. The Secretary of State for the Environment wrote to the Secretary of State for Employment to see if the position in Liverpool could be eased. Subsequently, the Department of Employment have agreed to provide more money for the CP schemes, but it is not yet clear whether this will be sufficient to assist Liverpool.

EDUCATION: SECONDARY SCHOOL REORGANISATION

3. The Secretary of State for Education and Science will announce a decision in March/April on Liverpool City Council's plan to reorganise County Secondary Education schools. The Council's intention is to create "comprehensive neighbourhood community schools". While this plan would save money, it would run counter to the Government's policy on parental choice, preserving good schools and making provision for single sex education.

DISTRICT HEALTH AUTHORITY

4. DHSS Ministers are considering a new long-term strategy for Liverpool District Health Authority to deal with an over-provision of acute hospital facilities, poor community services and a degree of over-funding compared with other Health Districts in the Mersey region. The proposed strategy - which has been subject to public consultation - would involve closure of two hospitals, substantial investment elsewhere and a greater accent on community care. Liverpool City Council oppose the strategy outright and argue that it will impose considerable additional burdens on their social services department. If Ministers accept the strategy an announcement could be made very soon.

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INNER CITY PARTNERSHIP

5. The City Council have published major plans for using partnership resources in 17 priority areas, mainly comprising run-down council estates, and may be seeking to confront the Government over these. Much of the proposed expenditure, particularly to improve housing, may conflict with the purposes of partnership expenditure and the role of main programme housing expenditure. Proposals to support the voluntary sector are ill-defined and those for inner city businesses unclear. Officials are urgently seeking further information.

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