

**LOCAL v. CENTRAL GOVERNMENT: THE SPENDING CONFLICT**

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Relations between the Scottish Office and local authorities have gradually deteriorated since George Younger declared his intention to stop what he called the "runaway train" of public expenditure soon after his appointment as Secretary of State in 1979.

Words like conflict, confrontation and showdown have dominated the headlines as Labour councils threatened to press ahead with their own budget plans irrespective of the spending guidelines laid down by the Scottish Office. In the financial year 1985-86 the local-central conflict appeared to reach crisis point with several Labour councils contemplating the idea of drawing up illegal budgets in defiance of Mr Younger. Speculation about the prospect of councils running out of money and individual councillors being surcharged or debarred from office overtook the normal issues of local politics.

In the event, only Edinburgh and Stirling councils went ahead with proposals that resulted in the intervention of the Secretary of State. Edinburgh District's new Labour group, having resolved to reverse the policies of the previous Conservative administration which it defeated in spectacular fashion at the 1984 district elections, held out to the eleventh hour but eventually set a budget which conformed to the spending requirements of the Scottish Office. Thus ended a battle which Mr Younger was assured of winning from the outset. He now possesses a formidable armoury of controls which he acquired over the last few years when it became clear that a Labour-dominated local government would resist his appeals for voluntary co-operation with the Government's public expenditure strategy.

The latest in the series of controls obtained by Mr Younger became the central issue of the spending dispute between councils and the Scottish Office during the past year. The Rating and Valuation (Amendment)(Scotland) Act 1984 gave the Secretary of State the power to limit by Order the amount a local authority can budget to contribute from its rate fund to the housing revenue account. This was seen as a further intrusion by the Government into the area of local decision-making as councils would no longer be able to use their discretion about the level of

subsidy from the rates towards housing and, consequently, their powers to decide council house rents would also be eroded.

The significance of this new control was probably lost on the public at large when the Bill was going through Parliament as media attention and political debate generally concentrated on another equally far-reaching provision – the rate-capping proposal allowing the Secretary of State to place a general limit on the level of rates should he consider this to be necessary.

While the Secretary of State for the Environment was simultaneously obtaining similar rate-capping powers in England, no parallel power to set statutory RFC (Rate Fund Contribution) limits were being contemplated south of the border. Already the test-bed for selective rate-capping, Scotland was now set to pioneer controls over revenue-financed housing expenditure. According to the Convention of Scottish Local Authorities, the Secretary of State for Scotland not only had the power to set rates but would now be able to set rent levels as well.

The Scottish Office, however, considered the introduction of the statutory RFC limits to be necessary because of the way councils had responded to a non-statutory system of administrative controls which had been in operation over the previous four years. Under this system of Housing Expenditure Limits (HEL) the Secretary of State was able to specify a limit to the RFC contribution to the housing revenue account. However, councils were not legally bound to abide by the limit. The figure could be exceeded without any legal sanction though a penalty was imposed by way of a corresponding deduction from the authority's capital allocation on the housing revenue account.

Although the Secretary of State apparently considered that the system had been successful in controlling the total of public expenditure on housing he was concerned that a "greater than desirable" share of the available resources were continuing to be pre-empted for current expenditure at the expense of capital spending. At the same time, those councils choosing to subsidise council housing from the rates at a higher level than the suggested limit were able to "blame" the Government for reducing capital allocations which were already considered to be inadequate at a time when housing conditions in some areas were deteriorating and when the construction industry was suffering from the economic recession.

In each of the four years the HEL scheme was in operation, about half

of the 56 housing authorities had their capital allocations reduced because of budgets that exceeded the RFC limits. In 1984-85, 23 authorities budgeted for RFC contributions over the limit and suffered capital penalties totalling nearly £20 million. Over the four-year period of the HEL system penalties amounted to over £110 million.

**TABLE 1**

**AGGREGATE RATE FUND CONTRIBUTIONS**

	<b>RFC limits set under HEL</b>	<b>Budgeted RFC expenditure</b>
	<b>£m</b>	<b>£m</b>
1981-82	62.3	115.7
1982-83	77.4	115.2
1983-84	112.4	124.8
1984-85	99.4	120.4

Because of the extent of excess budgeting over the RFC limits and concern about the effects of the HEL system on capital spending, the Scottish Office decided to press ahead with the new arrangements introducing statutory controls. These came into effect for the first time in 1985-86. Michael Ancram, Scottish Minister for Home Affairs and the Environment, announced to COSLA in the autumn of 1984 that the RFCs in aggregate would be limited to a provisional figure of £90 million in the following financial year. Individual councils were told to budget provisionally for an RFC 10 per cent below the limit they were set for HEL in the previous year or not exceed their budgeted contribution for 1984-85 if that was lower. The Scottish Office estimate of the rent increase implied by these figures was an average across Scotland of about £1 a week though it was pointed out that there could be considerable variations between authorities.

Councils were also advised that where an authority could demonstrate that its provisional RFC limit could not be met without requiring it to impose a rent increase significantly above the average the Secretary of State would in principle be prepared to reconsider the limit subject to certain conditions. Of the 34 authorities making representations, only three – Edinburgh, Badenoch and Strathspey, and Orkney Islands – had their limits marginally increased. The aggregate of the limits as specified in the Housing Revenue Account Rate Fund Contribution Limits (Scotland) Order 1985 and debated by Parliament in January 1985 was £89.489 million.

The Scottish Office stressed at this time that the new RFC limits, taken with a real increase in the resources available, would mean that authorities had an extra £48 million for investment in their housing stocks in 1985-86. A Scottish Office statement pointed out that the new statutory power would ensure that the money would be spent on meeting housing needs and on improving the housing stock “rather than on subsidising the rents of tenants whose incomes are too high to qualify them for housing benefit”.

Faced with the limits about to come into effect in spite of Opposition objections in the Commons, the Labour Party in Scotland found itself engaged in the delicate political task of preparing a strategy on both housing expenditure and spending on general services. It was felt that the lack of a co-ordinated plan of resistance to spending curbs in the past had been to the disadvantage of individual councils.

Labour’s position in Scotland had been considerably strengthened by its successes at the 1984 district elections and it clearly faced a dilemma in preparing its advice on council spending. Its controlling groups had been elected on manifestos which promised to protect services in the face of Government-imposed cuts and also restrict increases in council house rents. In Edinburgh, Labour had pledged a rents freeze. The issue of the local mandate was clearly one that would assume some relevance in the debate about local-central relations. The problem, however, was that councils would have no choice but to accept the Government’s limit on the rates subsidy to housing if they wanted to remain within the law. Scottish Office Ministers denied the claim that housing authorities no longer had control over rents. They argued that local politicians still had some discretion as they could reduce the impact of the RFC limits on rents by improving efficiency and cutting management and maintenance costs.

The outcome of the Scottish Council of the Labour Party’s deliberations was the production of a somewhat vaguely worded document setting out a “strategy for non-compliance”. It exhorted councils to set budgets in accordance with local needs rather than with Scottish Office spending guidelines. On rents, the document suggested that any increases considered to be necessary should not be out of line with the prevailing inflation rate. At a later stage, the position was clarified when the Labour executive accepted a motion by the Dundee local party calling on councils not to increase rents by more than £1 per week.

Doubts over the advice being given by Labour and criticisms of the “no law-breaking” line adopted by some executive members resulted in the

executive reaffirming the non-compliance strategy and pledging its support for any Labour council coming into confrontation with the Government by following party policy. What was meant by "support" never became clear. The Shadow Scottish Secretary, Donald Dewar, went on record as declaring that Labour could not condone law-breaking though he shrewdly suggested that it was up to Mr Younger to reconsider his policy in order to avoid the threat of illegal action.

However, it became obvious there were continuing divisions in the Scottish executive as to how far councils should be prepared to go in defending rents policies and services. The then chairman of Labour's local government committee, Mark Lazarowicz, an Edinburgh district councillor, said councils should be prepared to break the RFC limit even if it meant adopting a budget which the Government would regard as being illegal. Those politicians warning that councils would not be supported if they went beyond the legal limits were simply not reflecting party policy, Mr Lazarowicz declared. One view put forward was that defiance of the RFC limits did not constitute law-breaking in itself. The question of illegality would not arise until a council was found to be in breach of the legislation by a court of law.

It was suggested at one stage that up to a dozen Labour authorities were considering preparing budgets that would include RFC contributions that exceeded the statutory limit. But only two councils, Edinburgh and Stirling, went ahead with proposals which ignored the limits. While it emerged that the majority of Labour councils would be able to conform with their RFC limits and still limit rents increases within the £1 ceiling, several Labour authorities would be unable to put the party's advice into practice if they were to prepare "legal" budgets. Aberdeen District decided initially to embark upon a similar course to that adopted by Edinburgh and Stirling but reversed its decision before its budget was finally approved. Scotland's biggest municipal landlord, Glasgow District Council, also stepped back from the point of defiance by agreeing to accounting adjustments which ensured a rents rise of less than £1 a week.

The hopes expressed by some Labour activists that there would be a united stand against the Government with no councils isolated in the way the Labour group in Lothian found itself five years ago failed to materialise. Other Labour authorities were prepared to give only their verbal support to the two defiant councils, pointing out that Edinburgh in particular was facing unusual circumstances which warranted a defiant approach. The Edinburgh Labour leader, Alex Wood, argued his case against conforming to the RFC limits by stating that the city's rents would need to rise by £2 a

TABLE 2

AVERAGE WEEKLY COUNCIL HOUSE RENTS

LABOUR-CONTROLLED AUTHORITIES

	1985-6 £	Increase £	%
Aberdeen	11.17	2.27	25.5
Clackmannan	11.65	0.47	4.2
Cumnock & Doon Valley	11.11	0.73	7.0
Cunninghame	8.89	0.09	1.0
Cumbernauld & Kilsyth	12.73	1.87	17.2
Clydebank	12.20	2.37	24.1
Dundee	9.82	1.00	11.3
East Kilbride	13.48	1.78	15.2
Dunfermline	12.15	-	-
Dumbarton	9.40	-	-
East Lothian	12.12	0.99	8.9
Edinburgh	13.33	-	-
Falkirk	11.62	0.93	8.7
Glasgow	10.64	0.89	9.1
Hamilton	11.19	0.88	8.5
Inverclyde	11.21	2.17	24.0
Kirkcaldy	12.60	0.90	7.8
Kilmarnock & Loudoun	10.58	1.08	11.4
Midlothian	11.85	1.09	10.1
Monklands	11.32	2.03	21.9
Motherwell	11.26	1.36	13.7
Renfrew	9.85	1.00	11.3
Stirling	11.56	2.27	24.4
Strathkelvin	11.58	0.93	8.7
West Lothian	12.04	0.83	7.4

CONSERVATIVE CONTROLLED

Bearsden & Milngavie	12.30	0.72	6.2
Eastwood	11.58	0.62	5.7
Kyle & Carrick	12.13	1.72	16.5

**INDEPENDENT**

	1985-6 £	Increase £	%
Annandale & Eskdale	13.85	0.60	4.5
Argyll & Bute	15.46	0.74	5.0
Badenoch & Strathspey	13.53	0.99	7.9
Berwickshire	13.71	0.96	7.5
Caithness	12.78	1.01	8.6
Ettrick & Lauderdale	13.12	-0.13	-1.0
Inverness	13.29	2.00	17.7
Kincardine & Deeside	13.01	1.20	10.1
Lochaber	13.35	0.83	6.6
Moray	13.76	1.94	16.4
Nairn	13.43	1.52	12.8
Orkney	13.08	2.20	20.2
Ross & Cromarty	12.78	0.74	6.1
Skye & Lochalsh	14.96	2.00	15.4
Stewartry	14.08	0.26	1.9
Sutherland	12.82	1.04	8.8
Shetland	13.53	3.20	31.0
Tweeddale	11.42	-0.15	-1.3
Western Isles	15.18	0.86	6.0
Wigtown	15.74	1.60	11.3

**ALLIANCE**

North East Fife	13.66	0.74	5.7
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**SNP**

Angus	12.71	0.96	8.2
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**NO OVERALL CONTROL (largest party in brackets)**

Banff & Buchan (Ind)	13.82	1.43	11.5
Nithsdale (Con-SNP-Ind)	11.46	0.82	7.7
Perth & Kinross (Con)	11.92	1.15	10.7
Clydesdale (Lab)	12.15	1.44	13.4
Roxburgh (Ind)	14.72	0.90	6.5
Gordon (Ind)	13.76	1.44	11.7

(Source: Convention of Scottish Local Authorities)

week. He maintained that the rents freeze was justified because the average rent of just under £15 a week was the highest of the four Scottish cities while the subsidy from the rates, at £48 per house, was the lowest and compared with £235 per house in Aberdeen; £208 in Glasgow and £174 in Dundee. Mr Ancram countered with the argument that Edinburgh's expenditure per house in 1984-85 was the highest in mainland Scotland and that virtually no rent increase would be necessary in 1985-86 if the council had not embarked upon a programme of increased council spending on housing for that year.

Edinburgh's spending plans allowed for an RFC of £8.462 million against the Government's limit of £2.824 million while Stirling fixed an RFC of £3.197 against the Government's figure of £2.026 million. In both cases, the Secretary of State decided to invoke powers under section 211 of the Local Government (Scotland) Act 1973 and hold public inquiries to determine whether the two councils were in default of their statutory duties.

In addition, the Scottish Office decided to impose temporarily the penalty that would have applied under the old HEL system. As a result, Edinburgh had £5,638 million withheld from its capital allocation while Stirling had its allocation reduced by £1.171 million. It was made clear to both councils that they would have the capital resources restored as soon as they revised their budgets to comply with the limits.

In politically astute moves aimed at focussing public attention on what they saw as the "real" housing issues, both Edinburgh and Stirling Labour administrations arranged to hold "alternative" inquiries at which "evidence" was heard from officers, tenants groups and other bodies. These were held simultaneously with the official inquiries which were chaired by a Reporter appointed by the Secretary of State. As expected the two councils were found to be in default and, in May, Mr Younger ordered both Edinburgh and Stirling to take steps to comply with his default orders.

One of the matters challenged by the legal counsel for the two authorities was the Secretary of State's assertion that in addition to failing to meet the RFC limits, Edinburgh and Stirling had consequently failed in their duty to set a "legal" rate poundage. Section 108 (2) of the Local Government (Scotland) Act 1973 requires district councils to determine a rate which will provide sufficient monies to meet such part of the total estimated expenses to be incurred by the council "as falls to be met out of monies raised by the rates".

The inquiries found Edinburgh and Stirling to be in default on both

counts. Consequently, Stirling was told not only to revise its housing estimates but its district rate which would need to be reduced from 23p in the pound to not more than 20p. In Edinburgh's case, the council's housing estimates would require to be revised and the district rate reduced by at least 1.8p in the pound. A further decision ordered Edinburgh to cut its rate by an extra 5.2p in the pound on the grounds that its planned general expenditure for 1985-86 was "excessive and unreasonable". As a result of both decisions, Edinburgh was faced with a total rates cut of 7p.

Stirling's Labour group leader, Michael Connarty, maintained that Mr Younger had exceeded his powers in ruling that the district council rate was "illegal". The council ultimately decided to bring its RFC into line with the Government's figure and having done this, it claimed it was under no obligation to reduce the rate poundage. It hoped to convince the Court of Session that the Secretary of State had no power to force a cut in the rate unless under a different part of the legislation. However, the court made an order of specific performance requiring Stirling to comply. Having fulfilled its pledge to "fight the Secretary of State all the way to the Court of Session", Stirling decided to obey the court's ruling. Politically, it had made the point that the rents increase of more than £2 a week was the fault of the Government and not the Labour administration.

In Edinburgh, the Labour group was continuing to give the impression publicly that it would continue to resist altering its RFC even if this meant defying the court. Indeed, one Labour group decision appeared to commit the council to this course. As in the Stirling case, the Court of Session made an order of specific performance. As the deadline approached for compliance a surprisingly swift about face by the Edinburgh Labour group resulted in a decision at a special council meeting to reduce the rate by 1.8p as required. Pressure from so-called "moderate" members of the group forced a change of tactics by the leadership. But there was no climbdown on the issue of the rents freeze. Significantly, Labour was able to produce proposals which would enable it to retain its manifesto commitment. The required reduction in the rate contribution was achieved by rescheduling debt payments, transferring maintenance expenditure into the capital budget and selling mortgages to enhance the capital fund.

The compromise on the housing issue, however, was by no means the end of Edinburgh's battle with the Government even though it signalled a strategic defeat. But the problem of the additional 5.2p rates cut demand remained. Edinburgh was the only Scottish authority in 1985-86 to be the subject of a Parliamentary report requiring a rates cut because of spending plans which were considered to be "excessive and unreasonable". To

achieve the rates cut ordered by Parliament the council was faced with the need to reduce its general services spending by £16.2 million.

In the matter of actually implementing the rates reduction, the council was powerless to do anything but stand by and allow it to happen. Legislation which originally allowed the Secretary of State only to cut rate support grant when penalising an "overspending" council, was strengthened three years ago in a way which gave Parliament the powers to specify a rates reduction. In Edinburgh's case, the report approved by Parliament set a deadline of August 14 when the 5.2p reduction would be implemented automatically by Lothian Regional Council, the rate-issuing authority.

With its rate income reduced, Edinburgh was faced with the prospect of a financial crisis of immense proportions. Its weekly rate support grant payments from the Government had already been stopped because of the effects of a general grant clawback imposed on all councils which had exceeded the Scottish Office expenditure guidelines. Councillors had been told that the authority could run out of funds by the end of the year if it continued on its existing spending course. If it could be shown that the council had incurred unnecessary expenditure which could have been avoided individual councillors who were responsible for the loss could be found liable to surcharge. The Council officials also found it necessary to point out that surcharge could lead to bankruptcy and disqualification from holding office.

All attempts to persuade Mr Younger to accept a compromise situation had failed. When the deadline for the rates cut was reached the council passed a resolution offering to make a rates cut of 5p if the Government was willing to increase the authority's spending guidelines. Alternatively, in the absence of a guideline increase, the administration said it would be prepared to cut the rate by 3.8p - 1.4p less than the reduction required. The Scottish Office rejected both alternatives and also turned down requests for talks.

Around this stage of the dispute, senior officials of the council decided to issue further advice to members. This time they suggested a temporary moratorium on the purchase of goods and services. They also stressed that the council's policy meant it no longer had a revenue budget covering any of its activities other than the housing revenue account. According to the officers there was no certainty there would be adequate revenue available in the year to meet all of the commitments being incurred. A legitimate demand by a creditor could lead to court action against councillors or

officials, or both, including the possibility of action for criminal fraud.

On August 19, the council's policy and resources committee effectively ended Edinburgh's confrontation with Mr Younger when it agreed to make the required £16.2 million cut in its budget. About half of the required savings would be achieved by stopping the expenditure "growth" that would have occurred in the remainder of the financial year had the original budget been allowed to go ahead. The rest of the savings would be made possible through "alternative funding" methods that included raising £3 million from capital receipts, taking £4 million from reserves, increasing commercial charges and cutting expenditure of supplies and services and on hospitality and attendances at conferences.

The group leader, Councillor Wood, claimed that while the administration had failed to realise its plans, it had already made considerable progress having created an extra 500 council posts, improved various services including cleansing, and reduced recreational charges. Opposition councillors, including the Conservatives, Liberal-Alliance and the SNP, maintained that Labour's proposals would merely create further difficulties in the next financial year especially since it had "raided" the reserves.

In its retreat, the Edinburgh Labour group undoubtedly lost some of its political credibility because of its claims at an early stage that it would not give in to the Secretary of State irrespective of the consequences. It failed in its efforts to force any kind of compromise from Mr Younger who is known to have been under strong pressure from local Conservatives to stick rigidly to his decision. Labour's ultimate goal was not to ignore the law for the sake of it; it had hoped all along that it might wring some concessions from the Government before the stage of law-breaking was reached.

Yet the group's defeat was not the humiliating one that many of its opponents had predicted. Though divisions in the group forced a change of course by the leadership when contempt of court was in prospect, Labour councillors managed to retain a surprising degree of unity, at least publicly, in spite of the pressures. They managed to avoid the kind of damaging split in the council chambers that marred the final stages of the famous Lothian versus the Government contest five years ago.

The leadership can also claim significant successes in the articulation of its case. The council's "Improving Services Creating Jobs" slogans were controversial but its public relations campaign highlighted with some skill the administration's arguments. The group also succeeded in backing down

before it was forced to by legal sanctions.

But Mr Younger must emerge as the winner of the latest round of conflicts with councils. He and his colleague, Mr Ancram, would be relieved that the prospect of a complete "showdown" with Edinburgh in particular had been avoided. A breakdown of services in the capital city with employees not being paid and councillors threatened with disqualification was something Ministers would not have relished. Armed with legislative controls on a scale which would have been considered to be unthinkable at the time of the Wheatley local government reforms ten years ago, Mr Younger was always assured of victory even though the timescale of it was in doubt.

His new RFC limits have worked well from the Government's point of view, having enabled the Scottish Office to control successfully and precisely the level of rate contributions to housing. Ministers have argued that ratepayers in some authorities were subsidising council tenants at an unacceptably high level. They have also maintained that the continuing differential in rents between Scotland and England can no longer be justified as average earnings in Scotland now compare favourably with those south of the border. Average rents in Scotland are now £11.50 per week compared with last year's average rent in England and Wales of about £14.70 per week.

As regards general services, the selective action procedure used in cases where planned spending is considered to be "excessive and unreasonable" has also had some impact on spending levels. Action to reduce grant was taken against seven authorities in 1981-82; against two in 1982-83; against four in 1983-84. There were no cases of selective action in 1984-85 while in 1985-86 Edinburgh was the only council to be acted against under the selective action powers. Apart from reducing the total "excess" spending of Scottish local authorities in relation to spending guidelines, the selective action procedure and a new system of general grant abatements (the "clawback") appears to be having a restraining influence on some councils which might have been tempted to spend at higher levels.

As about half of the 65 Scottish local authorities have planned expenditure in accordance with guidelines in 1985-86, Mr Younger is now making some progress towards his goal of achieving real reductions in council spending. But the stopping of his so-called runaway train is proving to be a longer and more painful process than originally envisaged. With budgets in 1985-86 exceeding the guidelines by £90 million, proposed expenditure is still higher than it was in 1978-79 as Mr Younger likes to

point out frequently.

There are now signs of a gradual realisation by many councils that they can have only limited success in their efforts to ignore Government directives on spending. Edinburgh's experience has shown that if law-breaking is to be avoided, compliance is ultimately the only course. But Edinburgh and several other Labour councils will continue to put up a fight.

The price Mr Younger has had to pay for his new controls is a continuing worsening of relations between local and central government. Local authorities believe that local democracy in Scotland has been seriously damaged because of the Government's determination to impose its will. Concern about the local-central relationships is now being voiced not only among Labour councils but also in some Conservative and Independent authorities which have been particularly resentful at the effect of continuing reductions in rate support grant. The effects of the 1985 revaluation did not help matters in many Tory areas.

With the Government committed to further public expenditure cuts in the interests of the taxpayer and the ratepayer, there seems no sign of any improvement in relations. Moves towards the privatisation of some local services, plans to curb the powers of councils to indulge in anti-government publicity campaigns and the expected overhaul of local government finance will lead to further tension between councils and the Scottish Office.

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