

THE OMEGA FILE

**LOCAL GOVERNMENT,
PLANNING AND HOUSING**

London
Adam Smith Institute
1983

CONTENTS

	Page
1. LOCAL GOVERNMENT SERVICES	1
Introduction	1
Competition in local services	3
Disengagement from services	9
Sales of property	13
Other powers	18
2. THE STRUCTURE OF LOCAL GOVERNMENT	21
3. THE FINANCE OF LOCAL GOVERNMENT	24
Sources and solutions	24
Extending accountability	27
4. THE MAIN PROPOSALS	29
5. PLANNING	32
Formal and informal planning	32
The aims and achievements of planning	33
Other objections to the planning system	37
Is planning really necessary	39
New objectives and methods	42
6. PLANNING PROPOSALS	46
7. HOUSING	48
Introduction	48
The private sector	50
The public sector	52
Other measures	57
The private rented sector	58
8. SUMMARY AND CONCLUSIONS	60
APPENDICES	63
APPENDIX A	63
APPENDIX B	68
APPENDIX C	72

First published in the UK in 1983 by
ASI (research) Limited
This edition (c) The Adam Smith Institute 1983

All rights reserved. Apart from fair dealing for the purpose of private study, research, criticism, or review, no part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without the prior permission of the publishers, ASI (Research) Limited, PO Box 316, London SW1P 3DJ (01-222-4995).

The views expressed in this publication are those of the author and do not necessarily reflect those of the publisher or copyright owner. They have been selected for their independence and intellectual vigour and are presented as a contribution to public debate.
ISBN 0-906517-35-4

Printed in Great Britain by Imediacopy Ltd, London SW1

PREFACE

The Adam Smith Institute's **Omega Project** was conceived to fill a significant gap in the field of public policy research. Administrations entering office in democratic societies are often aware of the problems which they face, but lack a well-developed range of policy options. The process by which policy innovations are brought forward and examined is often wasteful of time, and uncondusive to creative thought.

The **Omega Project** was designed to create and develop new policy initiatives, to research and analyze these new ideas, and to bring them forward for public discussion in ways which overcame the conventional shortcomings.

Twenty working parties were established more than one year ago to cover each major area of government concern. Each of these groups was structured to include individuals with high academic qualification, those with business experience, those trained in economics, those with an expert knowledge of policy analysis, and those with knowledge of parliamentary or legislative procedures. The project as a whole has thus involved the work of more than one hundred specialists for over a year.

Each working party had secretarial, research and editorial assistance made available to it, and each began its work with a detailed report on the area of its concern. Each group has explored in a systematic way the opportunities for developing choice and enterprise within the particular area of its concern.

The reports of these working parties, containing, as they do, several hundred new policy options, constitute the **Omega File**. All of them are to be made available for public discussion. The **Omega Project** represents the most complete review of the activity of government ever undertaken in Britain. It presents the most comprehensive range of policy initiatives which has ever been researched under one programme.

The Adam Smith Institute hopes that the alternative possible solutions which emerge from this process will enhance the nation's ability to deal with many of the serious problems which face it. The addition of researched initiatives to policy debate could also serve to encourage both innovation and criticism in public policy.

Thanks are owed to all of those who participated in this venture. For this report in particular, thanks are due to Sydney Chapman, Christopher Chope, Mervyn Dobson, Michael Forsyth, Philip Haymer, Malcolm Hoppe, Robert Jones, and Douglas Mason, among others. All **Omega Project** reports are the edited summaries of the work of many different individuals, who have made contributions of various sizes over a lengthy period, and as such their contents should not be regarded as the definitive views of any one author.

1. LOCAL GOVERNMENT SERVICES

INTRODUCTION

Local government has undergone a huge expansion over the past few decades. By 1982, its workforce accounted for one-eighth of the nation's employed population. This was the largest proportion ever reached, although the absolute numbers employed fell back slightly from its peak of 3,060,000 in 1979 to 2.9m in 1982. Meanwhile, expenditure has risen to around £30,000 million per year.

The proportion of the employed labour force now in local government compares with 1.2 per cent in 1890 and 5.6 per cent in 1938. This was a time when many local authorities ran their own hospitals and provided gas, electricity and water supplies - which makes it curious that local authorities should argue today that their growth is the result solely of the increased public demand for, and the provision of, extra essential services. In 1981-82, falls in education employment (to 1,483,000), construction (132,000) and in certain other local authority services (to 763,000), were partly offset by continued rises in health and social services (to 352,000) and police (201,000).

Plainly, local government has not experienced a decline comparable with the remainder of the economy, and parts of it continue to grow at remarkable rates. In our view, its relatively undisturbed position does not derive from increased public demand for its services, nor a public willingness to pay that price, whatever it happens to be. It comes from the political difficulties of reducing local government programmes once they are established, from the pressures brought to bear by interest groups to add new services continually, and from the coercive power which local authorities have to extract payment through the rates. Thus, the providers of local authority services are effectively insulated from real economic demand: ratepayers vote only for a package of policies and services every few years, and can do little to express their views on the level or quality of particular services. Potential beneficiaries campaign hard for new services to be introduced and existing ones to be extended, but there is little that others can do to resist the gradual creeping up of total expenditure as it goes to one new programme after another.

The search for a solution

Since there is a constant pressure on local authority decision-makers to improve the range and quality of services, this upward drift makes the problem of financing those services a chronic one. There have been two traditional solutions.

The first solution has been to raise rates and taxes. However, national politicians of all parties are resisting attempts to

raise taxes yet further - particularly if they are to be spent on projects over which national leaders have no control. At the local level, the coercive power of local authorities to increase the rates is effective, but only up to a point: ratepayers are now beginning to complain more loudly, and as high rates force the closure of local businesses, so that the tax base itself is reduced.

The second solution is to cut services. There have been severe reductions recently in services such as municipal golf courses, sports centres, old peoples' homes and others. Unfortunately, the difficulty with this route is that the services which are cut are not necessarily those that will save most money or those that are in least demand. They tend to be the easiest to cut, and sometimes they tend to be in the most controversial areas in an attempt to demonstrate to national governments and local ratepayers that further trimming of the budget is impossible. They tend to be at the sharp end of service delivery, rather than in the central administration itself, so that very visible service reduction sometimes generates rather little overall saving.

The third solution

The third approach, which we believe is more promising than either of the traditional alternatives, is to attempt to make more efficient use of the resources which we have available. Local government has not shown that it can increase its productivity to supply better services at lower cost, although this is undoubtedly possible with some effort. In fact, a search for the most efficient way of providing existing services is made surprisingly rarely.

In a fiercely competitive world, we must make the best use of all our resources to maintain, let alone increase, our comparative standard of living. The inefficient use of resources, such as presently occurs in the provision of local government services, is indefensible.

A large literature is now available on how local services can be provided at lower cost. Although limited in scope, a recent report by the accounting firm Coopers & Lybrand, produced on behalf of the Department of the Environment, suggested that alternative delivery systems could be used, or were being used in some places, for services such as refuse collection, waste disposal, pest control, laundries, professional services, vehicle maintenance, and so on (1). Going on to review the different sorts of delivery system available, E S Savas contrasts the provision of services directly by single local government departments with practices such as inter-authority agreements and

(1) Coopers & Lybrand Service Provision and Pricing in Local Government (London: HMSO, 1981)

work-sharing, the contracting out of services, franchises, vouchers and grants to needy individuals to buy services in the marketplace, the use of volunteers, and combinations of different delivery systems (1). Studies by Robert Poole, by Michael Forsyth, and by scholars at the Urban Institute, have catalogued worldwide examples of how these alternative systems can be used to provide better services at lower cost (2).

The practical experience is also growing in Britain. Before Southend announced its intention to use contractors for refuse collection and street sweeping in 1980, only five of all the authorities in Britain contracted out more than ten per cent of refuse services by value. Today, there are scores of local authorities who are contracting or are actively considering it, over a wide range of services.

COMPETITION IN LOCAL SERVICES

Although the introduction of competition into local services is proving its value, there is little pressure on local authorities actually to contract out or experiment with other forms of service delivery. Indeed, the greatest pressure on them is from their own workforce, generally apprehensive of the changes which contracting out would bring. Consequently, where invitations to tender have been made, they are often inspired only by the desire to extract savings or higher quality from the existing workforce, rather than any true aim of introducing the benefits of competition. A recent survey by **Local Government Chronicle** listed authorities who had rejected commercial bids for services (3), even though the private bid was in many cases far cheaper.

Obligation to tender. It seems to us that it is a mistake and an injustice to the ratepayers that an alternative and cheaper method of service delivery is rejected solely in the interests of placating existing employees and avoiding political unpleasantness. **Services could be provided more efficiently if there were not only an obligation to tender, but an obligation on local authorities to accept tenders which provided services at demonstrably lower cost.** A wide range of local authority services could be similarly treated.

Lowest subsidy tendering. There is a widespread objection to

(1) E S Savas, Privatizing the Public Sector (New Jersey: Chatham House, 1982)

(2) Robert W Poole Jr, Cutting Back City Hall (New York: Universe Books, 1980); Michael Forsyth, Reservicing Britain (London: ASI, 1980); Donald Fisk, Herbert Kiesling, and Thomas Muller, Private Provision of Public Services: An Overview (Washington D C: The Urban Institute, 1978).

(3) Local Government Chronicle, 17 June 1983, pp 655-662.

contracting, of the form that some services are simply not profitable by their nature, and that private firms would therefore not be interested in providing them. But the tendering principle can in fact apply equally well to local services which are presently supplied at a loss. In the first instance, some services which are delivered today with old-fashioned methods can occasionally be made profitable by the introduction of better marketing and presentation or new techniques and technology. Bus services may fall into this category (1). Other services which are loss-making when performed by a small authority might be easily profitable to a large firm which has many customers over the country and can therefore enjoy economies of scale: and in contrary fashion, an unprofitable service in a large authority might conveniently break down into profitable units which can be undertaken by small contractors. Tendering should not necessarily be rejected, therefore, simply because a function is presently loss-making.

There is, consequently, no reason why any service should be exempted from the obligation to invite tenders. If a service is of such a nature that it is inevitably loss-making, then we propose that the tendering principle should still apply, with the local authority choosing the qualified contractor that is willing to accept the smallest subsidy to perform the service. Competition will then still be active, but will be based on the smallest necessary subsidy rather than the lowest offered price.

Range of service. The range of services which are potential candidates for alternative provision by contract is almost endless. However, there are a number of prime candidates, and it seems appropriate to suggest a list of candidates for immediate compulsory tendering, a list which could probably be added to in two or three years when further practical experience had been gained. The services which are prime candidates include:

Architects, surveyors and valuers
Catering
cemeteries and crematoria
Cesspool emptying
Cleaning of local authority buildings, offices, schools and housing estates
Data processing
Gritting and snow clearance
Highway maintenance, including maintenance of lights and signs
Holding and delivery stores
Laundry services for the housebound
Legal services
Maintenance of grounds and buildings
Management of recreation centres, libraries, museums, and art galleries
Management of sports facilities and swimming pools

(1) For detailed analysis and proposals for bus services, see the Omega Project Transport Report.

Management services
Meals provision and delivery
Parks and gardens maintenance
Payroll administration, revenue collection, and cash in transit
Pest control
Printing
Provision of residential homes and day centres
Refuse collection and disposal
Rent collection
Sale of council houses
School meals
School transport
Security and caretaking in public buildings, schools, and housing estates
Street cleaning
Transport functions and vehicle maintenance

While the complete contracting out of the services on this list would undoubtedly reduce the level and the cost of the central administration that was needed, a small kernel of professional staff and administrators, such as lawyers, architects, surveyors, and others, might be retained in direct employment to monitor the work that has been contracted out. Alternatively, we suggest that **the task of monitoring the contracts could itself be contracted out**, but this is probably of lower priority at present.

Control of tendering

If a service is to be provided efficiently, there must be some form of control over its operation. At present, there is very little control over many local services, with established workforces not subject to market demands and therefore unwilling to cut costs and generate improvements. Given this lack of control, it is strange that the most common argument against using contracts is that the quality of the service would decline if performed by a private firm because of the need to 'cut corners' in the interests of making a profit. But in fact, it is the need to make a profit and the contractor's desire to retain the contract that enables more control to be exercised over the service. Services of even higher quality than the present can be guaranteed easily by the laying-down of strict and uniform guidelines and standards, with penalties payable to the local authority if they are not adhered to. In our view, **the Audit Commission seems the most appropriate body to perform the task of laying down the standards and guidelines for tendering, and it could also assume the task of investigating complaints following the granting of a contract.** Such investigative power might usefully be extended to apply to private firms and direct labour organizations alike.

Recent experience has shown other pitfalls in contracting which can again be overcome easily (and given the proliferation of literature on the subject, it is remarkable that local

authorities continue to make the same mistakes). For example, it is essential that there should be a pre-qualification process to eliminate unsuitable contractors, with a requirement for authorities to accept the lowest bid unless there are exceptional reasons for doing otherwise, which may include the results of pre-qualification tests. The compulsory publication of these reasons would allow full public discussion of the decision.

Another essential point is that the incoming contractors should have a sufficiently long period of contract to make their investment in the task worthwhile. In services such as refuse collection, this may be up to five years. The Audit Commission would have an important role in ensuring that tenders were invited on the basis of sufficient duration to make the contract viable.

Accounting practices

To afford accurate comparisons, it is plainly necessary that tenders received from private companies should be compared with the actual costs of the corresponding direct labour operation, rather than with what the direct labour department says that it will be able to achieve in the future, but is not contractually bound to honour. The historic costs of the direct labour services over the past year should be taken into account when comparisons are made with private sector tenders in order that a measure of this actual rather than theoretical cost can be taken. However, in all fairness, this system of measurement would require that the direct labour department should have time to reduce its own costs before a comparison is made with tenders received. In our opinion, the fairest method would be to allow direct labour a period of two years after the announcement that tenders will be sought in order to give the departments time to improve their services and reduce their costs. At the end of that two year period, the auditors and local authority decision-makers would have a clear picture of the alternative costs incurred by direct labour and those offered by contractors.

Naturally, if direct labour departments are being invited to reduce their costs in advance of tenders being received, they might wish to form themselves into independent companies or co-operatives in order to submit their own tenders. There seems no reason to erect any institutional barriers against this, and it seems likely that this form of co-operative could be an effective way of providing services more cheaply and responsively but without the apprehension of major manpower changes and with comparatively little transitional disruption.

Creative accounting. At present, 'creative accounting' and non-uniform accounting techniques make it possible for many items of cost to be omitted from the estimates of the cost of direct provision. Items such as pensions, the forgone rate income on council property, the opportunity cost of buildings and equipment, and other items are often either difficult to measure,

or are ignored, or are placed on other parts of the budget which are not considered when service costs are being compared.

For effective comparison, therefore, local authority accounting procedures, particularly the evaluation of the total historic costs of direct labour service provision, would need to be standardized along commercial lines. Rigorous accounting methods of this kind, in which all costs and overheads are clearly identified and listed, have already been drawn up and put to use in other countries (1). The application of this technique to Britain would require that **local authorities should present their services accounts in such a form that the costs of every individual activity can be readily seen, including all overheads, administrative costs, and other indirect expenses.** The guidelines for this and for its review and application could probably be drawn up by the Audit Commission, based on the work already done abroad.

Privatization ombudsman. In the management of the tendering process, the Audit Commission (or other similar authority) clearly has a role to play as a kind of privatization ombudsman. Not only must the claims of contractors be carefully assessed, but the direct labour department itself must be scrutinized. Some independent body is clearly required to make these judgements, since the local authority is clearly not independent in the matter. There is also a need for the various arguments and claims to be raised openly in public discussion: and only when the true costs, the savings achievable, the effect of those savings on the rates, and other factors such as the future quality of the service are known, can a sound decision be made. Public confidence in the outcome would be raised by the interventions of this ombudsman body, since it will become more difficult for local authorities to postpone a decision or to reject it for reasons other than of inherent shortcomings in the tenders submitted.

Statutory payments. Accurate accounting would therefore require that the local authorities should take into account all costs, including the much overlooked expenses of central administration, when calculating the true historic costs of a direct labour operation. But it is equally important that the transitional costs of moving to a new method of service delivery should also be recorded accurately. For example, local authorities would be justified in including in transition budgets only the statutory minimum redundancy payments which will be incurred from laying

(1) In Germany, for example, Professor Eberhard Hamer has conducted this exercise on 600 different cases, concluding that the costs of contracting are almost always less (often substantially so) than the total cost of direct provision when all overheads have been included. For background see Eberhard Hamer, Burokratieuberwalzung auf die Wirtschaft (Hannover: Schlutersche, 1979) and Eberhard Hamer, Privatisierung als Rationalisierungschance (Minden: Albrecht Philler, 1981)

off any direct labour workers, but would not be justified in including larger sums, because the actual level of the redundancy payments can be known only when - and if - the decision to change is made.

Extension, not revolution

It is sometimes thought that the introduction of competitive alternatives for the provision of local government services is a new and radical move. Today, nothing could be further from the truth. Up to a few years ago, there might have been some strength in the argument, since only small parts of the large and expensive services such as refuse collection were contracted out; but even so, many smaller services were widely contracted out on a routine basis. Recently, as the range of services performed under contract has widened the number of private contractors now available and willing to supply a host of different services has grown dramatically. This has major implications for the future: not only is it getting progressively easier for councils to organize a tender because they can draw on the experience of many others that have already done so, but the number of firms in the market has also grown. Competition is both real and strong, and the practical experience of firms working under contract has improved.

In fact, a form of compulsory tendering already exists, albeit limited in scope. Under the 1980 Local Government, Planning and Land Act, local authorities are required to invite tenders for building and highway work over a value specified by the Secretary of State, and similar provisions apply to Scotland. **It would be a comparatively easy step to extend the range of services to be covered by obligatory tendering rules, to those already listed, and to revise downwards the value of the work which must be put out to tender.** Since direct labour forces are able to form themselves into tendering companies or co-operatives, this may not always lead to new people coming in to do the work, but it would certainly ensure that the present workforce and the potential private contractors would have to keep their costs low and their quality high at all times.

Transition period. We envisage that a **transition period of five years would be required for all of this wide range of services to be moved to compulsory tendering.** In the meantime, some procedure would have to be devised to manage the transition, such as the Secretary of State specifying what proportion of the gross costs of the range of services would be required to go to tender each year. Thus, by a gradual process, the full range of services would be completely subject to the obligatory tendering rules by the end of the five year period.

This gradualism is highly important. It will permit both local authorities and contracting firms to build up greater expertise and experience in dealing with each other. It will allow time for new contracting firms to emerge, or existing ones to extend

their operation, in order to meet the new demand for contracting. And it will allow the most difficult services to be left until the appropriate techniques have been learned and refined on simpler services. In this way, the opportunities for improving service quality together with economic efficiency will be maximized, without putting undue strain on contractors or local authorities.

DISENGAGEMENT FROM SERVICES

Local authorities are often involved in services which could never be described as essential and which sometimes duplicate the efforts of the private sector. Often, the provision of a service or facility subsidized by the rates makes it impossible for private alternatives to become established, a crowding-out effect which stifles initiative, reduces consumer choice, and puts an unnecessary burden on the rates - further depressing local business conditions. In such ways, local authorities possess and use the power to destroy and distort commercial markets, an outcome which is often unintended but nonetheless common.

The trading concerns of local authorities have spread, often without attracting much notice, to an extent which may well go beyond their actual statutory powers. All English and Welsh Authorities, except the City of London (which is a prescriptive charter corporation) are statutory corporations created under the Local Government Act 1972, and as such have the power to undertake only those actions they are specifically authorized to do under statute. Other actions not being incidental to authorized powers are ultra vires and can be set aside by the courts. Local authorities are not empowered to trade, therefore, except in those circumstances where specific authority has been granted. For example, there are no general powers which enable local authorities to run bus services, although some do so under private Act powers.

Where they are profit-making, local authority trading concerns are often supported on the grounds that they help reduce the rates. In fact, this usually ignores the opportunity cost of the accommodation occupied by the local authority concern, the shrinking of the rates base if property is used by the local authority instead of by individuals, and the fact that the profits of traders are spent locally and serve to raise general incomes in the community, raising incomes in proportion to rates. Indeed, the boost to local incomes would probably be greater if those with a more direct interest in making profits were running these concerns, rather than the local authority which does not have a natural expertise in such diverse concerns.

Yet there are several methods available to restore local market structure by discouraging local authorities from carrying out municipal trading, and by prohibiting the subsidy of non-essential ventures which already exist. Some obviously non-essential services can be sold. Where other trading ventures

cannot be run without a subsidy, they can be compulsorily put up for sale so that they can be undertaken by tradesmen who might be able to operate them more profitably, or who could use the assets in a more productive manner. Where sale proves difficult, it might be possible to retain the service for a short time while inviting tenders on a least-subsidy basis or to franchise the service to those presently running it. But wherever the trading concern itself is not essential, the justification for retaining it is obviously limited.

Services for immediate sale. Under the Light Railways Act of 1896, local authorities are empowered to run light railways: but this activity seems so tangential to the aim of serving the residents that there is no reason to retain it. Private companies or associations of volunteers would no doubt happily run these services where they are really desired by the public.

Some local authority services, such as aerodromes (provided under section 30 of the Civil Aviation Act 1982) are of chief benefit to those using them rather than the ratepaying public. Provided that proper health and safety standards apply, there is no reason why local authorities should run these facilities, even for a charge (Slaughterhouse Act, section 17), and they could be conveniently sold to the users and the powers to provide them removed.

Suspension of unprofitable services. The model for phasing out the powers of local authorities to run unprofitable services is provided by the Civic Restaurants Act of 1947, under which local authorities are empowered to carry on restaurants and otherwise provide for the supply of meals and refreshments to the public. But if the restaurants' accounts show a deficit in three successive years, the powers to run the restaurant cease in respect of the authority concerned.

Although catering naturally lends itself to successful contracting, many of these restaurant concerns are peripheral to the work of local authorities, so that the best solution is probably their sale to the people operating them or to private individuals and firms. But the present principle of phasing out unprofitable ventures could undoubtedly be applied to many other services.

One example might be bathing huts, provided under section 232 of the Public Health Act 1936; powers to provide laundry services to council houses under section 95 of the Housing Act 1957 are another; provision for entertainments and dancing, concert halls and dance halls under section 145 of the Local Government Act 1972, and powers to provide garage space under section 5 of the Local Authorities (Land) Act 1963 are also included in this group. In each case, we envisage that if the accounts of these facilities show a deficit in three successive years, then the power to provide the facility would cease in respect of the local authority concerned.

Right of appeal. Another method which would help local tradesmen who feel that they are being unfairly crowded out by local authorities, would be to give private firms who provide the same or similar services to those of the local authority the right to appeal to the Secretary of State to have a public enquiry held to examine whether the local authority is indeed misusing its position to give its own organizations an unfair advantage. Local firms could then operate with greater certainty, in the knowledge that their business would not be suddenly undercut by subsidized concerns.

The right of appeal need not be limited strictly to local traders, but to any organization which believes that it can undertake the existing service at lower cost or with an increase in amenity. Some of the curious non-essential services presently run by local authorities, such as laundries (long since made redundant by coin-operated launderettes), theatres, and slaughterhouses, might well be sold after such an appeal procedure has run its course.

Sales to tenants. Consistent with this principle of disengaging from non-essential services, local authorities can be required to sell all smallholdings in their possession. Some of these amount to sizeable areas of valuable land, and would be placed on the open market, although it may be desirable to offer a discounted first option to sitting tenants.

Local authorities have powers under Part III of the Agriculture Act 1970 to own land which they let as smallholdings. One way of removing this facility would be to enact provisions similar to the right to buy discounts currently available in regard to the sales of council houses.

However, a more effective solution exists, although it has certain legislative complexities. This solution proposes that from a given date, a local authority should cease to hold the freehold (or superior leasehold) title of land let for smallholdings. The freehold title would naturally be bought by a private person or company, but since the smallholder at present does not have any special right to buy, it would require a new statutory right to pre-emption at the time when the local authority put the land on the market. It seems reasonable that the local authority should be required to advertise the sale and send notice to the smallholder who would have a specified period (say one month, similar to objecting to notices regarding agricultural leases under the Agricultural Holdings Act 1948), in which to serve notice of his wish to buy. Thereafter, the freehold title could be sold to any individual.

After this process is going on, it would be possible to prohibit the acquisition of further land for smallholdings either by local authorities or, under section 55 of the 1970 Act, by the ministry.

Charging in preparation for disposal. Public washhouses,

provided under section 221 of the Public Health Act 1936, have been so overtaken by domestic technology that they seem prime candidates for sale or other uses. But the same legislation, together with section 4 of the Physical Training and Recreation Act 1937, allows local authorities to provide leisure facilities such as swimming pools, gymnasias, playing fields, holiday camps or camping grounds. The Local Government (Miscellaneous Provisions) Act 1976 extends the list to skating rinks, tennis, squash, and badminton courts, bowling centres, dance studios, riding schools, golf courses, gliding facilities, water skiing and more.

The public health considerations which stimulated local authorities to provide swimming and other leisure facilities half a century ago are much less strong today, particularly when travel and other leisure activities have changed our lives so much. Furthermore, the cost of building and operating sports centres has escalated dramatically, especially since the energy crisis, and partly because they are built not only as leisure facilities but as monuments to the authorities that build them. Charges, where they are made at all, are rarely sufficient to cover more than a slim part of the overall costs.

There seems no good reason today why expensive leisure facilities, particularly those which benefit only small interest groups, should be provided by local authorities and funded by the general ratepayers. Future developments can be prevented by removing the powers for new projects to be undertaken, but solving the problem of existing facilities is more difficult. In our judgement, it requires initial moves to set charges at an economic level in order that the facilities concerned can be put in a state suitable for sale or operation by contract.

Charging by itself, however, is not, in our opinion, a sufficient or effective policy in itself. One reason why charges are rarely at an economic level is that they are subject to constant political pressure. Those who want to use the service naturally campaign for it to be as cheap as possible, while those who pay for it, being more disparate, are less organized. Every attempt to raise charges to economic levels is loudly resisted by the vested interests, and so charges for local authority services of any kind tend to stick at artificially or absurdly low levels. Furthermore, poor accounting practices often make it completely or almost impossible to determine what the true cost of any individual facility really is. **Much more careful procedures are required so that the true costs can be calculated and charges can be set at a level to meet them, and the Audit Commission once again probably has a valuable role in this exercise.** Where the opinion of the authority is that charges cannot be set to reflect actual costs, it seems reasonable that they should be required to state the reasons clearly to the auditor, who in turn could usefully be given the power to direct that charges be revised where he considers that the local authority's action is not justified.

Having set charges at economic levels, therefore, potentially profitable facilities can be sold. In the first instance, user groups such as sports clubs might be invited to bid, with their offers being considered favourably. Facilities which are unlikely ever to be profitable, but which are nevertheless difficult to abandon or transfer to other purposes, can be put out to tender on a least subsidy basis.

Total review obligations. But the example of sports centres is only one of many within a wide range of activities, facilities, and functions which can be provided quite adequately by the private sector and in many cases already are. And it must be remembered that independent providers of services are nearer to public demand than local authorities can ever be: it is their perpetual search for profitability that stimulates them to discover and produce what the consumer wants, and to devise the lowest cost method of providing it. When a firm decides to provide a service, it is stimulated by the decisions of the consumers who do (or do not) willingly patronize it. But the ultimate decision-maker in local authority enterprises is not the consumer, but the officers, the members, and the political campaigners. The views of the majority count little, and can be expressed in a diffused way, through the ballot box, only at long intervals.

In this sense, the market sector is more genuinely democratic than the public sector, involving the decisions of far more individuals and at much more frequent intervals. Local democracy and autonomy are not being eroded by the setting free of local markets, but are being enhanced by the encouragement of private involvement in and provision of necessary services. The fact that the rate income that is presently being spent on the maintenance of non-essential services could be used to stimulate more productive growth must also be a powerful factor which must prompt local authorities to examine the whole range of activities they are involved in, and which argues strongly that they should be obliged to identify those areas which could be as well, or better, provided by independent companies and individuals.

Powers to be retained. Nevertheless, there are some powers which amount to legitimate trading ventures of local authorities, particularly in respect of their being able to dispose of surplus capacity, and these might be retained in their present form. Of this type are the powers under section 38 of the Local Government (Miscellaneous Provisions) Act of 1976 to sell surplus computer time, powers to sell heat and electricity under section 11 of the same legislation, powers to buy and sell goods and services from other public bodies under the Local Authorities (Goods and Services) Act 1970, and powers to buy and sell furniture for council houses under section 94 of the Housing Act 1957.

SALES OF PROPERTY

When large stocks of land are held by local authorities, as they

are at present, it is a barrier to economic development. Not only does it inhibit house construction by restricting the supply of available land, but by the same token it restricts industrial development. Both of these effects reduce the volume of rateable property and therefore increase the burdens of existing ratepayers. In addition, land-hoarding by local authorities forces up the price of the remaining land, and makes housing generally more expensive and gives industry generally higher plant overheads to absorb, costs which are eventually passed on to consumers in terms of higher prices or lower employment.

Scale of the problem

Much of the land owned by local authorities, particularly in urban sites, is not used at all but is allowed to turn to wasteland. The land registers record a total area of derelict land in England of 87,563 acres (137 square miles), an area equivalent to the combined areas of Liverpool, Manchester and Sheffield, in which 1,500,000 people live. But private estimates show that this even so is a gross underestimate: in London, for example, there is some thirty square miles of wasteland, compared to the merely eight square miles registered. The registers record only fifty-four sites in the Borough of Tower Hamlets, but a definitive survey by Coleman (1) suggests that there were over 400 vacant sites in public ownership in 1979. In Swansea, it is reported (2) that nine per cent of the city is wasteland, some of it having remained so for more than ten years. Much of this wasteland is owned by local authorities. In Liverpool, the city council alone were found to be in possession of more than three-quarters of the vacant land in the borough in 1975. The GLC owns many acres of urban wasteland, but is still buying. The chart below gives the disturbing picture.

(1) A Coleman, Dead Space in the Dying Inner City, 2nd Land Utilization Survey of Britain (London: Kings College, 1981)

(2) Vacant Urban Land in South Wales (UWIST, 1980)

Table 1

DISTRICT COUNCILS WHERE THE AREA OF DERELICT LAND
HELD BY PUBLIC BODIES EXCEEDS ONE SQUARE MILE

**more than
1 SQUARE MILE**

Stoke-on-Trent
Landbaurgh (Cleveland)
N Bedfordshire
Barnsley
Sefton (Liverpool)
Darlington
Wigan
N Tyneside
Basildon

**more than
1.25 SQUARE MILES**

Woodspring (Avon)
Kingston-upon-Hull
Glandford (Humberside)
Manchester
Wellingborough
Bradford
Liverpool
Coventry
Bolton
Blackburn
Vale Royal (Cheshire)

**more than
1.5 SQUARE MILES**

Middlesborough
Bristol
Derwentside (Durham)
Stockton-on-Tees
Wakefield
Gateshead

**more than
2 SQUARE MILES**

Wrekin (Shropshire)
Leeds
Warrington
Northampton
Newham (London)
Sunderland

Source: Land Registers
(1 Square Mile = 640 acres)

There are many reasons why local authorities find themselves in possession of much waste land. One is their attempts, during the property boom of 1968-73, to take on speculative functions. However, ambitious plans to fill the land acquired with local authority housing schemes were thwarted when the boom subsided. Large schemes led to long disputes and delays, and financial stringency drained local authorities of the resources to develop the land they had acquired. One four-acre site belonging to the GLC in Southwark, for example, has lain idle since being bombed in the second world war, despite private schemes being put forward for its development. But the council retains the site, along with seventy others in the area, in the hope of building council housing on it (for which no resources are available in the foreseeable future).

Land is a limited commodity, and there is no denying the evils of derelict land in particular and under-used land in general.

It seems reasonable, therefore, that some methods should exist to reduce the unnecessary land holdings of local authorities. The potential economic expansion of such divestment would bring economic benefits in terms of the expansion of the rates base, the lowering of the cost of domestic and commercial buildings, and the employment stimulus to the construction industry.

Potential solutions

In the short term at least, the revenue received by local authorities from the sale of their land resources (or even from the lease or rental of the land) would be beneficial, in that the authority's funds would be bolstered, and commercial or domestic building could go ahead. But it is not easy to ensure that an obligation to dispose of unnecessary land holdings is honoured, because of the subjective nature of what might be regarded as necessary or how much land could be developed by the public sector in future years.

The only workable solution would seem to be to set down firm targets for the sale of idle land. For example, **we propose that local authorities be required to put up for immediate sale a substantial part (twenty-five per cent) of their idle land by public auctions.** They would be free to select the particular packages which were suitable for early disposal, while making plans for the development, sale, or leasing of the remaining portion. Further obligatory sales would be required in the case of some authorities with particularly large holdings or inadequate plans for future development and its financing.

At present, Part X of the Local Government, Planning and Land Act 1980 deals with excess land held by public bodies. By virtue of section 93 and Schedule 16 to that Act it applies to all local authorities and other public bodies.

Under section 95 of that Act the Secretary of State may compile a register of freehold and leasehold interest in land of bodies to which the Act applies that is not being used or not being sufficiently used for the performance of the body's functions, and under section 98, local authorities can be directed to dispose of interests held by them as shown on the register. The direction may specify the steps to be taken for the disposal and the terms and conditions on which an offer to dispose of the interest is to be made.

The obligation to sell can therefore be achieved without requiring legislation, if the Secretary of State directed 25% of the land registered to be sold but did not specify which portions. However, section 98(1)(a) of the Local Government, Planning and Land Act 1980 may require clarification to allow a specified proportion of the total of all interests measured by area to be subject to this direction.

One proposal now in active consideration operates to allow

people to demand the return of idle land to productive economic and social use. This proposal (1) is to entitle any ratepayer or commercial concern to petition the courts for a land redemption order to be served against a local authority in respect of a specific parcel of land owned by the authority. Should the court find that the land in question has remained derelict or unused for eighteen months or longer while it has been in the authority's possession, and that development is not about to commence within the next six months, then the order would be served, and would compel the offending authority to sell off the parcel of land by public auction on a day set down in the order, and would append outline planning permission for housing, business, office or industrial improvement (2).

Non-functional property. In addition to idle land, many local authorities have become substantial landlords, possessing the freehold of shops and offices that are not required for the exercise of the council's functions and services as such. Some argue that they hold this property because it constitutes a good investment. However, local authorities can easily invest their money well without getting into the business of property speculation and management. They are, moreover, major net borrowers, as the following table illustrates, and if the **interests of the ratepayer were sovereign, would be selling local authority properties in order to minimize many of their outstanding debt repayments,** instead of compiling a property portfolio of irrational mixtures of investments and debts.

It is, of course, quite possible to build up a portfolio which contains debts and investments of various durations and riskiness, aiming at some rational mixture. But this is a complex art, even for professional investment managers: and the assets built up by most local authorities are the product of historical accident rather than rational choice. In view of the fact that this must be economically inefficient, it seems reasonable therefore to insist that all local authorities should provide a justification for the ownership of each item of property they hold, and the overall balance. Investment consultants can be hired to manage the portfolio; but a less troublesome step might be to oblige the authorities to dispose of all their non-functional holdings within a certain period, say five years. Ministerial, rather than legislative, measures will be sufficient to achieve this divestment.

(1) For this, see John Loveless, The Waste Land (London: ASI, 1983).

(2) See Appendix A for a development of this proposal.

Table 2

**ANNUAL RATE TAKE REQUIRED TO SERVICE COUNCIL DEBTS
FOR SOME COUNCILS IN ENGLAND AND SOME LONDON BOROUGHS***

Council/ Borough	Gross Rateable Value £million	Accumulated Debt £million	Variation of Debt '78-'82	Rate Take* Required to Service Debts	Actual Rate Precept 1982/83
N Tyneside	21	181	+32%	108p	215p
Derwentside	7	60	+25%	103p	177p
Blackburn	14	112	+22%	100p	164p
Southwark	58	455	+52%	98p	197p
Newcastle	42	324	+27%	96p	249p
Barnsley	19	145	+29%	95p	213p
Sunderland	28	212	+13%	94p	203p
Liverpool	71	515	+39%	91p	188p
Middlesborough	17	123	+56%	90p	190p
Greenwich	33	238	+51%	90p	180p
Lewisham	34	243	+39%	89p	177p
Preston	15	65	+ 2%	54p	150p
Southampton	32	106	+14%	42p	150p
Havering	38	96	+ 5%	31p	150p

* Assumes average debt charges are 12.5% p.a.
Source: Municipal Yearbooks (1983 and 1979).

OTHER POWERS

There are other important powers of local authorities which are also candidates for reconsideration. These include grant-giving powers, industrial development functions, and a number of statutory obligations to provide various services.

Grant-giving powers

Under section 137 of the 1972 Local Government Act, a local authority is permitted to spend, in any one year, an amount equal to a 2p rate 'in the interests of their area or any part of it for all or some of its inhabitants'. In many cases, this allocation has been used wisely to support local groups providing genuine contributions to the arts, to helping elderly or underprivileged residents, and for other generally laudible purposes. But in many other cases, it has been regarded as a licence to give support to partisan causes which local

politicians wish to promote, or to organizations which appear to be worthwhile but which have heavy political overtones. In any event, the groups which are likely to receive this largesse are likely to be those which can put up the most effective case through active lobbying, rather than those which are genuinely engaged in useful work.

The net result is that many groups of questionable value or controversial nature continue to flourish on the support of the ratepayers who, given the choice, would not regard their activities as being 'in the interests of their area or any part of it'. On balance, the removal of this particular conduit is justified, particularly in view of the fact that local organizations are quite capable of raising money independently through a variety of fund-raising techniques available to them all. It would then be easy enough to see which organizations really command local support. Although the power to aid groups by direct contributions is a good candidate for abolition there would still be nothing to stop local authorities assisting worthwhile causes by helping to organize voluntary appeals and other similar activities. National government too has a part to play in encouraging voluntary causes, for example by instituting complete tax-deductability for contributions made to charities, education, and the arts. So it is not necessary that the worthwhile babies should be thrown out with the undesirable bathwater.

Industrial development functions

A further item which has generated increased activity by local authorities, particularly in recessionary periods, is the function of attracting businesses into their areas, and subsidizing those already located there. Using various statutory powers, including section 137 of the 1972 Local Government Act once again, and section 44 of the 1982 Local Government (Miscellaneous Provisions) Act, local authorities can give 'financial assistance to persons carrying on commercial or industrial undertakings'.

Where this assistance amounts to inducing firms to transfer from one part of the country to another for no good economic reason, or in attempting to keep firms in the locality at a cost in higher rate bills, it is hard to justify. There is little evidence that local authorities have any particular expertise in industrial or commercial development, or are good and unbiased judges of which industries are most efficiently located in which parts of the country. The attempts to stave off closures with interest free loans and other subsidies to existing firms have often served to postpone, but not to prevent, the closure of outmoded concerns, and must therefore depress the development of new and more innovating firms getting established.

If there is a strong case for developing industry preferentially in a certain part of the country, such as one in

which unemployment is high and mobility is low, then we believe it is best achieved by the progressive easing of planning rules, labour legislation, and other regulations that restrict the establishment and operation of new businesses. But the provisions which enable local authorities to act as advertising agencies, merchant banks, and the providers of subsidies that have purely temporary effect, are wasteful by their nature.

Statutory obligations

A very large volume of local government expenditure has its roots in the statutory obligations to provide a long list of services laid down over the years by central government. These include not only education and the provision of housing for homeless people, but a very sizeable range of other activities, such as the licensing of guard dogs and street traders, and even the provision of musical recordings by local authority libraries.

A list of statutory obligations placed on local authorities by central government has already been compiled some time ago (1) and is easy to update. It is time to take stock of this list, and to reconsider which of these obligations should be required at all (the obligation to provide musical records seems superfluous in this age of cheap radios and free listening), which are necessary but could be performed privately under contract (such as some licensing procedures might be), which could be more efficiently run, or privatized, under the wing of central government (such as education), and which should be subjected to charges, and at what level.

(1) A Businessman's Guide to Local Authority Finance and Expenditure, (London: Confederation of British Industry, 1980).

2. THE STRUCTURE OF LOCAL GOVERNMENT

The reform of the structure of local government is a controversial area, particularly in view of the generally accepted failure of the most recent reform and the argument which greets any new proposals. But if the aim of local government policy is to promote economic efficiency and reality, to organize local government units for the most effective delivery of essential services, and to improve the accountability and value for money of authorities, then the present structure is undoubtedly inadequate.

The fundamental mistake of the last reform was to introduce a new tier of local government administration which, because of its large scale, was expected to be a more efficient vehicle for the operation of many functions that were necessarily broad in scope, such as long-range planning and highways provision. In the event, it has been discovered that this often serves to slow down or thwart the decision-making process, and that services of wide scope can be more efficiently performed by co-operating groups of smaller authorities rather than by the new authorities which were supposedly designed for the job. **We suggest the removal of one tier of local government which in England and Wales would require the reallocation of the responsibilities of the Greater London Council and the six metropolitan county councils, and would probably have to extend to a similar reallocation of the responsibilities of the non-metropolitan counties.**

Mechanics of the reallocation

The GLC provides an example of how the powers of the larger authorities can be devolved to smaller ones, transferred to central government, or dispensed with entirely, but analogous techniques would also apply in the case of the metropolitan and non-metropolitan counties (1).

Industry and development functions could be absorbed by central government. In any event, it is questionable whether the large sums spent on 'creating' and 'saving' jobs actually do so, particularly when these expenditures raise rates and therefore depress business prospects generally. In any open and advancing economy there is a natural turnover of employment and a successive elimination of old jobs in favour of the creation of new ones. The most appropriate role for a local authority is to relieve the worst social effects of this turnover, not to attempt to prevent it. **Recreation, tourism and the arts** may also be responsibilities that are suitable for central government operation, although some historic buildings, parks, theatres and concert halls could more successfully be passed on to local boroughs. In any event, the transition period would provide a

(1) The problems and prospects for this are analyzed in Appendix B.

good opportunity to review how much of this expenditure is genuinely justified, and to what extent these services can be provided by non-government methods. **Financial redistribution** between areas is cited as a valuable social function of larger authorities, but there is growing evidence that its effects are perverse, serving to keep local authority spending at a high level in areas where it could best stand back to let private initiative flourish. Certainly, there may be case for transfer payments in times of emergency, such as flooding, but central government could undertake this responsibility nationally in any event.

Flood prevention, however, seems a cost that is correctly borne by the boroughs that are likely to be affected, although some central government assistance might be desirable in order to reflect the national importance of flood prevention in London. **Housing**, likewise, can be the responsibility of the boroughs or other small authorities. **Waste disposal** occurs in authorities of various size throughout the country, and there seems to be no reason why particularly large authorities are needed to handle it. In some cases, small authorities have formed themselves into co-operating groups in order to provide these and other services on a larger scale. **Planning**, similarly, can be handled by the smaller areas, making the process quicker and probably more popular, but in any event we foresee a much reduced role for local authority planning in the future. **Scientific services**, such as the examination of buildings and schools for safety, the monitoring of air and water pollution, noise measurement and so on could be undertaken by the smaller authorities, to the extent to which they find it desirable to do so; and in difficult cases, central government can undoubtedly assist.

Public transport functions could be discharged by conurbation transport authorities, which would be new bodies designed to organize and manage necessary transport operations with the minimum of political control. One priority, particularly in the case of London Transport, would be to break down the transport system into cost centres so that proper evaluation of costs and potential profitability could be assessed. Preparation of packages for sale, for performance by worker co-operatives, for performance by minimum subsidy contracting techniques, or for other means of restoring a competitive framework would then be required. The gradual removal of subsidy to transport undertakings would be compensated by the distribution of subsidy to needy individuals, probably organized through national government or through the smaller local authorities, by means of transport tokens (1). **Road construction**, design and maintenance would, we envisage, be moved to a new body, the National Highways Trust, and the individual local authorities would play their part in its operations.

Fire services, and in the case of the non-London counties, the

(1) See the Omega Project Transport Report (London: ASI, 1983).

police, might also require new controlling authorities to be set up. In the case of fire, this might simply amount to a grouping of some or all of the smaller authorities in the area. For police, we envisage that the financial responsibility should be returned to the national exchequer, although local control might best be exercised by groupings of smaller authorities. Nevertheless, questions have been raised regarding the amount of control over police activities which it is appropriate for local politicians to exercise, and this does require further debate.

Education is a similarly difficult function to deal with (1). One simple solution is to organize it through new boards which have the power to raise their own rates, but which are elected to ensure a greater measure of accountability. A more permanent solution is to transfer the financial responsibility to central government in the first instance, while building up the management and financial responsibilities of schools councils, extending the control of parents in particular. There are other methods which are desirable, in the longer term, to improve the responsiveness of the education system to the needs of parents, pupils, teachers, and employers, but in the immediate term, the splitting of the large local authorities into smaller units does not pose any major organizational problem.

Need for caution. In more general terms, it will certainly be possible and sometimes desirable for authorities to amalgamate or join forces on the provision of particular services. This may take time to become fully effective, and would be best undertaken only after certain peripheral functions have already been contracted out or otherwise dispensed with, otherwise even more unmanageable bureaucratic giants may be formed. The size of the authorities will have to be reduced before anything of this nature is envisaged, and that it would probably be in the public interest that amalgamations are first approved by the ministerial authorities following consultation with the Audit Commission.

Appendix B shows how the functions of the non-metropolitan counties could be reallocated to other centres following the complete removal of that tier of local government, and in such a way as to cause the minimum of dislocation and the maximum of administrative saving.

Postal districts. Although administratively the county boundaries would disappear under this proposal, we propose that they and the old county names should be restored for postal purposes. Removal of the old names was an unpopular move which greatly damaged the sense of community in many areas, although in certain rare instances was entirely logical. There is, however, no reason why local government administration should necessarily dictate names of the areas in which people live and empathize with.

(1) Proposals in the regard are outlined in the Omega Project Education Report.

3. THE FINANCE OF LOCAL GOVERNMENT

Although there now exists a consensus that the present rating system leads to injustice and has other deficiencies, there is no general agreement on how to reform it. It is clear, however, that piecemeal reforms will do little to correct its worst problems either to correct its anomalous incidence, to promote a clearer picture of the true costs of local services to the ratepayer, or to give the ratepayer greater say in the scale and disbursement of his rates.

SOURCES AND SOLUTIONS

There are four main sources of finance for local authorities. Each of them could contribute to an effective reform.

Rents and charges

Local government in Britain spent approximately £30,000 million in the financial year 1981-82, as we have seen. Of this, approximately 16 per cent came from rents and other charges.

This is, in itself, a sizeable sum, and a firm base for the raising of additional revenue. As outlined above, **there should be institutional systems to ensure that charging more closely reflects the true costs of providing local services, including more accurate cost accounting which take all overheads and other indirect costs into consideration.** This will produce a greater rent, fee, and charge income to cover expenditures on essential services, and would undoubtedly take significant pressure off ratepayers. It also makes the cost of non-essential services fall more directly on those who enjoy their benefit.

Grants from central government

Of the remaining sources of revenue after existing fees and charges have been considered, some 57 per cent comes from central government through rate support grants, 24 per cent comes from non-domestic rates, levied on commercial, industrial, and other premises, and 19 per cent comes from domestic rates.

Expenditure on education and the police just exceeds the total of the rate support grants paid to local authorities by the national government, but is very close to it indeed. **Since the local political control of police and education are controversial we suggest that national government should assume responsibility for funding education and the police directly, enabling the rate support system to be removed, while still leaving local authorities as a whole about £1,000 million per year better off.**

Naturally, there will be objections that the support system is

needed in order to meet the needs of particularly unfortunate areas. However, local authority spending is not the best vehicle to help in such circumstances; indeed, additional expenditures by local authorities often inhibit the creation of new enterprises and new jobs, rather than stimulate them. Furthermore, local authority institutions such as widespread council housing have served to reduce labour mobility and further impoverish those areas which have the most desperate employment needs. **The gradual replacement of unnecessary or inefficient local government services with more cost-effective alternatives, and a more open market structure, would release opportunities for new jobs and new development far more than higher spending, channeled through central government support.** And it is plain that for assistance to be most effective, it should be steered towards those who really need it - a task for national welfare provision - rather than be used indiscriminately to subsidize services that can be used by the rich and the needy alike. If these processes are set in motion, the arguments for differential support payments begin to fade.

Domestic rates

With education and police funded directly by central government, the rates problem assumes more manageable proportions. In our view, the wider the incidence of a tax, that is to say, the more adults that pay it, the more its scale is understood; and, of course, the more the costs it covers are spread through the population. **For this reason it is desirable as well as practicable to replace domestic rates by a simple per capita tax.**

A per capita tax lowers the cost of exempting certain individuals or groups, for instance the elderly or the handicapped, whom it is thought should not bear the full burden of financing local services. In addition, it removes the problem of individuals who may have low incomes but who live, for one reason or another, in property that is highly rated; and it does not positively discourage individuals from making improvements to their property, as the present system does. The problem of fixing rateable values - almost impossible because the rented sector has dwindled to almost nothing - is obviated. And all adult individuals who consume local authority services are included, not just the rateable occupiers.

A reform of this nature still leaves scope for discussion about the treatment of particularly low-income individuals, pensioners, and other groups. One method would be for the local authority to arrange its own rebate system for groups that it believed were deserving. Alternatively, the full per capita payment would be due from everybody, but would be taken into account by national government authorities in the assessment of welfare benefits. This latter system would amount to a national subsidy to those areas with a low-income or elderly population, which might not always be desirable: some districts are favourite retirement spots among relatively well-off pensioners, and should not be

automatically assisted from national funds.

It is clear, however, that an increase in the number of individuals who were directly affected by rates, even where these were routinely lumped together and paid by the head of the household, would be a more correct attribution of the costs of local authorities, and would generate greater interest in those costs by all adult persons. The accountability of local authorities is therefore likely to be considerably increased.

Non-domestic rates

Many firms, particularly small high-street businesses, have been forced to close partly because of the very high rates which have become payable in recent years. Other firms have remained in business, but have had to reduce drastically the size of their workforce, or have shelved plans for expansion. There is no doubt about the direct link between rises in rates and the precipitation of unemployment.

Small business is particularly hard hit. Partly because of the absence of regular and frequent revaluations, since small business rents have risen proportionately less than those for larger premises: and the paucity of rental information in the domestic property area means that domestic rateable values are lagging many years behind, causing a significant relative under-assessment of their rates.

As rates reliefs have become more widespread, and as costs have generally increased, some local authorities have found raising the rates on commercial and industrial property to be an easy option. Others, ideologically hostile to private enterprise, have been happy to raise income from a group which has no electoral means of preventing it: a case of taxation without representation. The closure of businesses, or their transfer to less highly rated areas, has in turn made the problem more acute: as businesses close down, the rate base shrinks, and unemployment imposes costs on the local authority. Further rate rises set the process off again, until the whole area becomes a 'social black hole'.

Solutions. If this easy method of raising money for local authorities did not exist, these destructive side-effects could be better avoided. Nevertheless, a straightforward abolition of the non-domestic rate would prove difficult, partly because of the substantial contribution they make towards local revenues. However, a number of measures would ease the pressures on private, particularly small, businesses and would make local authorities more responsive to their objections.

Limits on the increase of business rates, fixing them in line with retail price index increases, would contain the problem to its present levels and would reduce the uncertainty about future increases which businessmen currently face. Beyond that, we

propose that a business vote should be introduced, with the qualification being based on rateable value, to reflect the interests of commercial ratepayers. The business vote would be analogous to the business vote prevailing in Northern Ireland up to 1969 but with minor adjustments. Votes would be attributed according to rateable value, such as one vote for every £100 of rateable value, up to a maximum of (say) six.

In our opinion, the £1,000 million surplus to the local government system following the transfer of education and police finance to central government should be put towards reducing non-domestic rates. Beyond that, local authorities could be obliged to pass on any expenditure reductions from improved service delivery systems by reducing the per capita tax and the non-domestic rate burden in equal proportions.

EXTENDING ACCOUNTABILITY

It is not difficult to enumerate other proposals which would have the effect of improving the accountability of local government and limiting the more undesirable effects of its increasing politicization.

For example, the principle of the Hatch Act which operates in the United States should be extended to local (and national) government in Britain, which would debar local (and national) government officers and employees from organizing and standing in public elections. Its effects being to prevent any coercion of junior employees to assist in campaigns for or against particular candidates, and, because of their vested interest in the outcome, to reduce the general involvement of government servants in election campaigns. Thus, the tendency of government to grow out of control because of increasing numbers who are dependent upon it will be partially checked, although by no means entirely removed.

Another method is to extend the rights of electors. In particular, this would amount to additional information, and greater powers to challenge local government decisions in the year when they are made, not just at elections. Improvement and greater responsiveness of the district auditor system may be one such vehicle. We also support new powers of referendum along the 'proposition' system, whereby major items of expenditure have to be approved in ballots of ratepayers and whereby initiatives for new projects or for rate reductions could be put forward and subjected to a binding referendum. These systems already work well in other countries and contribute greatly to a direct involvement by the individual in local government affairs.

The internal organization of local councils themselves should be opened for review: for example, the membership of local authority committees might be split according to the election results rather than being dominated by particular parties.

There are a number of practices such as these, which work effectively in other countries, and which could be introduced in an attempt to improve the responsiveness and accountability of local government. Undoubtedly local government reorganization has alienated the electorate, and television has brought voters nearer to national politicians than to local ones. This drift away from local accountability need not continue if local authority structures are streamlined, if services are subjected to greater electoral review, and if the financial burdens are spread more generally and are limited to those who can express their views by ballot. Further thinking is certainly required; but if this approach is continued, we are confident that local government can be a sound vehicle to serve the interests of the whole community and not just of a limited number of political and sectional interest groups.

4. THE MAIN PROPOSALS

(1) The range of services for which tendering is required under the 1980 Local Government Act should be extended, and the value at which work must be put out to tender should be revised downwards.

(2) At the end of a transition period of five years, the full range of local government services should be subject to obligatory tendering by private business.

(3) The Audit Commission should be used to lay down uniform standards for assessing services from both public and private sector suppliers.

(4) Tenders from direct labour organizations should be based on the historic cost of the service, with a two-year adjustment between the announcement of this policy and its implementation.

(5) Direct labour costs should be calculated along standardized commercial lines under the direction of the Audit Commission.

(6) Local authorities should engage in prequalification procedure to ensure the viability of tendering firms.

(7) Direct labour organizations should be encouraged to form independent co-operatives and bid for contracts.

(8) Loss-making services should be considered for tender on a least subsidy basis.

(9) The Audit Commission should be assigned the role of 'privatization ombudsman' to judge the complaints and disputes for both public and private service providers.

(10) Local authorities should be disengaged from municipal trading, and obliged to sell or contract out activities under this heading. Powers to subsidize non-essential ventures should be rescinded.

(11) Firms or interested parties should be given the right to appeal to the Secretary of State for a public enquiry to see if the local authority is misusing its position to give its own organizations an unfair advantage.

(12) Local authorities should be required to sell all smallholdings in their possession, possibly with a discounted option to sitting tenants.

(13) The Audit Commission should be empowered to determine economic charges for council facilities including leisure centres and sports provision.

(14) A complete review should be undertaken by government of all

local authority obligations to see which are, or could be, better discharged by private bodies.

(15) Councils should be obliged to sell 25% of all idle land.

(16) Any local resident or commercial concern should be empowered to have a land redemption order served in respect of idle land. If the land has remained derelict for eighteen months or longer, with no development scheduled within six months, the order should be served to compel sale by public auction.

(17) All local authorities should be obliged to publish the complete list of their property holdings, together with justification for the retention of each. They should be obliged to dispose of all non-functional property holdings within five years.

(18) Powers under section 137 of the 1972 Local Government Act, which enables councils to spend an amount equal to a 2p rate 'in the interests of their area or any part of it for all or some of its inhabitants' should be rescinded.

(19) Tax deductibility should be introduced for private and commercial gifts to voluntary organizations such as charities, education and the arts.

(20) Councils should forfeit the power to spend money to attract businesses to their area, or to subsidize those already located there.

(21) A complete review should be undertaken of statutory obligations to remove those which are no longer necessary.

(22) The GLC and the six metropolitan counties should be abolished and their powers redistributed.

(23) The non-metropolitan counties should be abolished and their powers redistributed.

(24) County names should be retained, and old ones restored, for postal address purposes.

(25) The government should assume directly the responsibility for funding education and the police, and the rate support grant should be removed.

(26) The £1,000 million surplus left by the central assumption of funding education and the police services should be required to be deployed to lower commercial rates.

(27) The present domestic rate should be replaced by a per capita tax levied equally on all adults, with special provision to be made for those in need of relief.

(28) Increases in the business rate should not be allowed to

exceed increases in the retail price index.

(29) A local business vote should be introduced, based on the rateable value of the business. There should be one vote per £100 of rateable value, up to a maximum of six votes.

(30) Local authorities should be required to pass on savings equally to the business and the domestic ratepayers.

(31) Serious consideration should be given to a measure debarring public employees from organizing or standing in public elections.

(32) Examination should be made of the possibility of introducing ballot initiatives to enable local voters to pass judgement on areas of concern.

(33) The powers of district auditors should be enhanced, and extended to new areas in which local electors can be given rights of appeal to them.

(34) The membership of local authority committees should be required to be split between parties in direct proportion to their performance in the election results.

5. PLANNING

FORMAL AND INFORMAL PLANNING

A point which often escapes attention is that planning in its present form, where controls are exercised by a governmental authority on behalf of the local population, is an essentially modern development.

In Britain, it began with the nineteenth century public health legislation to control the width of streets and the height, structure, and layout of the buildings that arose to meet the growing urban populations of the industrial revolution (1). In the 1880s, the German cities of Frankfurt and Altona designated zones for particular uses, and *ad hoc* restrictions existed in at least some American cities about the same time. Following this trend, Britain introduced powers for local authorities to control future town development in the Housing and Town Planning Act of 1909. The 1919 Act made such controls obligatory for towns with populations of more than 20,000, while the 1925 and 1932 Acts extended planning powers to rural communities and smaller towns, and widened their scope to include already developed areas.

The philosophy of growing state control in the wartime period led to a spate of reports calling for more radical measures: the Barlow Report (1940), the Scott Report (1942), and the Uthwatt Report (1943). The new Ministry of Town and Country Planning brought all land under interim planning control in 1943, and a year later, urban authorities were given powers to acquire, replan and rebuild areas of war damage, bad layout or obsolete development - representing control over a significant area of land. The 1947 Town and Country Planning Act, and the 1968 Act which subsumed it, translated these powers into their recognizable modern and current form.

Informal systems

Planning, without the state, is almost as old as urban society itself: from the earliest times, military necessity dictated the layout and the design of important townships, while defence problems severely limited their spread. Even in more peaceful ages, development was still controlled by feudal superiors and landowners who had the ultimate say over what happened on their estates and were the accepted planning authorities. As the

(1) But the smallness and poor quality of houses in this period was largely caused by other government measures, such as the prohibitive duty on high quality timber, and taxes on bricks, tiles, and windows. See T S Ashton, 'The Treatment of Capitalism by Historians', in F A Hayek (ed.), Capitalism and the Historians (Chicago: University of Chicago Press, 1954).

number of landowners grew, this private control became more diffused, but no less effective.

Much of our outstanding urban architecture was created under this private planning system, with Bath, Belgravia and the New Town of Edinburgh being fine examples. But even the centres of many historic towns and villages, where land ownership has for centuries been split between different and changing people, still demonstrate the capacity of the informal system to co-ordinate individual buildings into a coherent whole. And, acting without the coercive powers of the state, private individuals laid out the model townships of New Lanark, Saltaire, Bourneville and Port Sunlight.

THE AIMS AND ACHIEVEMENTS OF PLANNING

Improving the environment

The primary aim of official planning policy has always been the elimination of poorly conceived, substandard developments, and the creation of a **better living environment** for people to live in and raise families. This aim has not been generally satisfied. The council estates of today might be more sturdily built than the Victorian terraces they replace (albeit at a higher cost to the public), yet they are often just as much an assault on the eye; and in some cases, like many tower blocks, they have neither sturdy construction nor community spirit to commend them.

Conforming use. The aim to confine developments to suitable locations has also served to make the lives of the tower block residents, and of those in the owner-occupied estates, less pleasant and convenient. The planners' division of cities into discrete zones for housing, shops, and industry, may suit administrative convenience and may even conform to the ideals of those who make the decisions. But the ideals of the planning class do not always reflect the wishes of those who live under their rule, particularly those of poorer people, who have been moved far away from the shops and workplaces they depend on.

Such rigid partitioning of cities, and the often blind refusal to tolerate what is called 'non-conforming' use (even where no nuisance is caused to others), have served to stifle new development rather than to control it. Existing shops, pubs, and other concerns are not allowed to evolve the new services which the area may demand, and new enterprises are forbidden from entering at all. People have even been denied permission year after year to develop derelict industrial land because officials and local politicians favoured a different type of project to the one being proposed.

Adequate facilities. Another aim of planning is to ensure that necessary facilities are available for those who live and work on new developments. Open spaces, parks, transport, water, sewers

and other utilities all have to be available if the quality of life is to be kept high. But again, the practical action has been haphazard, or absent, or unnecessary.

Recreation spaces are a case in point. The National Playing Fields Association has had a target figure of six acres of outdoor recreation space per 1,000 of the population since 1955. When this target was last reviewed in 1971, only two out of the thirty-three cities studies had more than four acres. Today, major conurbations have 'totally inadequate' provision, with less than one ground per 20,000 persons, including Sunderland, Hammersmith, Tower Hamlets, Southwark, Glandford, Beverly, and Dudley - despite the prevalence of large areas of derelict land in all these districts.

Likewise, it is worth enquiring whether anyone would consider undertaking a new development unless the standard utilities could be provided in any case. Even more than a century ago, the Builder Thomas Cubitt told the House of Commons that he would not allow a house to be built unless drainage and other utilities could be arranged. The proper role of local planning, if one exists, must therefore be to attempt to predict future needs - not to control them - and make sure they can be provided.

Health and welfare. The aim of maintaining standards of health, safety, convenience, and welfare is a laudible one. Certainly we would wish to discourage cheap and shoddy building, undertaken for a quick profit. Yet it is by no means clear that present planning policies have brought great improvements in this respect.

Firstly, the long debates and delays over planning have left our cities with unused land and buildings, some of them out of use since the last war. They naturally pose safety hazards and are a breeding ground for pests and vermin. Secondly, the costs of obtaining planning permission and the intricate web of standards required of new structures serve to increase building and improvement costs. Commerical concerns must employ fewer people or charge higher prices to cover the extra costs; and dwellings become more expensive to buy, with the result that families live in more crowded conditions because younger people cannot afford their own homes. Thirdly, if the protection of the public is the aim, planning authorities are not the only (nor perhaps the most appropriate) vehicle. Strict public liability insurance may be more effective in forcing builders and the owners of buildings to make sure that their products and property are sound, sanitary, and safe.

Identity of towns. Another environmental aim of planning has been to preserve the identity of townships, and to prevent them being spoilt by garish and tasteless modernities. It has probably had precisely the opposite effect.

The attempt to contain towns within green belts is understandable, but it has the effect of driving up land values

within the built-up area. This in turn increases the pressure on public and private bodies alike to build higher and more utilitarian structures, out of keeping with existing buildings and not 'human' in scale. Secondly, the coercive land-buying powers (and the political might) of public sector agencies have meant that public sector structures are often the largest and worst offenders. It is more often the university residence and history library, or the municipal car park, which disfigures a town, rather than the factory or the private housing estate. Thirdly, whether the 'character' of any particular area is worth preserving depends very much on personal tastes. What seems to the planning class as the protection of local character might seem to less fortunate groups to be the thwarting of opportunity and convenience. A growing and bustling city might be preferable to them than a quiet but planned stagnation.

Protecting the individual

Protection of the individual, as well as the environment, has been another persistent aim of planning. Property values, for example, can be severely depressed by neighbouring developments of an unpleasant character, and by denying planning permission, this can clearly be prevented. Alternatively, the increased land value resulting from permission being granted ('planning gain') can be extracted from the landowner and used to help repay the remainder of the community (1).

But attempts to appropriate the financial benefits (never the financial losses) of planning permission have met with patchy success. While planning gains have brought some benefits to some councils, and on occasion to their residents, landowners and not local authorities have been the principal gainers from development rights. Secondly, local authorities themselves hold remarkable power to affect the land values of neighbouring property owners through their land-buying powers, their ability to grant **themselves** planning permission, and their general financial muscle. There is probably a greater incidence, therefore, of adverse neighbourhood effects **with** planning than without it. Thirdly, planning permission creates a completely false market for land. Consent for development often becomes a larger part of the value of a piece of land than any natural properties it possesses. Fickle changes in local policy can create huge alterations in value.

Collective control versus profit. Planning philosophies rest firmly on the principle that the owners of property do not have the right to develop it as they deem fit, but require the advance permission of the community, so that communal values can be put ahead of personal profit. Even if this were a just principle for a free society (which in our opinion it is not), it has not worked in practice.

(1) This principle was proposed in the 1942 Uthwatt Report.

In practice, although development rights have been nationalized, the public has little or no opportunity to influence their use. 'Society' does not determine how development should occur: local politicians, or even smaller planning committees, or non-elected planning officers, take the decisions. Sometimes, councils are so reluctant to override the advice of their 'professional' planners that the planning officers' endorsement, not the wish of the general public, becomes the major hurdle to be surmounted in the process of gaining planning permission.

It is also a fair point that planning authorities have the power to destroy whole streets and communities in pursuit of their own ambitions, profitable or not. It is quite likely that more people think of themselves as being at risk from planning that suppose themselves protected by it.

The vision of people coming together to predict and plan their own future has been shattered by events. Long range planning is a bureaucratic or political exercise undertaken by local authorities and modified by central government ministries. Input from the public has in general been confined to the self-interested observations and objections of residents and businesses. The plans that emerge from this process have shown that the collective brain of the civil service and council officialdom is no better at predicting the future than anyone else. Yet once they are established and endorsed, it becomes almost impossible for individual members of the public to challenge them.

Nuisance. Planning also presupposes that prior restraint by planning authorities is necessary for coping with nuisance problems. This begs the question of whether externalities (for example, noise, smell, congestion, or pollution) are best dealt with by collective controls, or whether there is some other method.

In our judgement, a better alternative could emerge through the application of the principles of property rights, principles which were being developed in practical terms before the rise state ownership, and which are now at the leading edge of economic theory. In its planning context, this approach can be quite simple: owners of property are presumed to have the right to clean air, a reasonable noise level, and so on. The interpretation of these rights will reflect local choice: standards accepted in the towns, for example, might be thought unbearable by rural dwellers. But in either case, a breach of these rights would be dealt with in the courts, with the onus on the complainers to initiate the proceedings.

Under such a system, the courts would decide whether a proposed new factory, or an individual running a business from his home, or an extension to an hotel, were admissible. It would not be decided on the whim of planning authorities, but rather on the actual or potential nuisance caused to local residents. There

would then be a strong pressure on individuals to ensure that their activities caused the minimum of nuisance, or to pay compensation to their neighbours rather than face closure.

OTHER OBJECTIONS TO THE PLANNING SYSTEM

In addition to its failure to live up to the aims set for it, planning is vulnerable to a number of other criticisms which its practice over thirty years has attracted.

Costs to the community

Planning is not without its costs that must be borne by the community, both in terms of higher prices and lost development.

Lost development. Planning restrictions discourage individuals from opening up new commercial ventures. By preventing or delaying activity, they reduce wealth creation and reduce the demand for building and allied trades.

Prices. Expensive and time-consuming planning processes raise the costs of industry and commerce, requiring them to charge higher prices in order to meet their overheads. Furthermore, because higher density dwellings are unpopular with planning authorities, land is used inefficiently, despite the demand for smaller homes from the growing numbers of single people living alone.

Operation of the system

The planning costs borne by potential developers (of whatever size) are undoubtedly higher than they need be, because the productivity of local authority planning departments is low, and delays are long. Lambeth, for example, handled 0.8 applications per employee per week in 1981 (1), one reason perhaps why the borough is not renowned as a good area for business developments.

A 1979 study (2) compared Britain with some of its trading

(1) Planning Performance Statistics (Department of Environment, quarter ending 31st December 1981); and Planning and Development Statistics - 1981-82 Estimates, (Chartered Institute of Public Finance and Accountancy).

(2) Industrial Investment - A Case Study in Factory Building, (Slough Industrial Estates, April 1979).

rivals. Slough Estates Ltd., an international industrial development group, produced figures based on the case of a 50,000 sq ft factory with a workforce of 150, and calculated the average time it took to obtain development planning permission. It took six weeks in Belgium; the United States was slightly better at five weeks, while in Canada it took only four. The average time in Britain was eight months.

The figures show that councils throughout the country and regardless of political colour, have a poor record in processing applications. To take the London boroughs as an example, Barnet, Brent, the City, Enfield, Havering, Hillingdon, Richmond, Sutton, and Waltham Forest all dealt with less than 50% of applications within eight weeks in 1981 (1). Kingston managed to deal with only 22%, Bromley with 21%, and Hackney with only 14%, within eight weeks.

Arbitrary administration. Other applicants, of course, are more fortunate. Few councillors will hold up proposals for a new factory on a green field site, provided that it brings a dowry of several hundred jobs; and many of these applications are cleared at remarkable speed. But it brings into question whether such things should depend solely on the discretion of the planning authorities.

This is the most powerful objection to planning: that each town, each local authority, each planning department, and each development proposal is different, as there are no known and predictable rules or guidelines whose satisfaction would permit the project to go ahead. It is the discretion of the individual planning officers and their elected employers which decides what projects will go ahead and in what form. The administrative despotism to which this leads has always been understood (2) and is well known to many today through bitter experience. With no firm rules to guide them, the arbitrary tastes and preferences of planning officers dictate what developments will and will not succeed; and since the right to develop is under monopoly control, it is difficult to contest the ruling, no matter how capricious - certainly not without yet further delay.

Indistinct assumptions. The aims which are pursued by the planning policy of any particular conurbation can be quite hard for a potential developer to determine, because they are often implicitly assumed. Thus it is often agreed that an 'intolerable' mixture of land uses must be avoided, although it is rarely stated why or to whom such a mixture would be intolerable, or precisely what exceptions would and would not be allowed on these grounds. Or again, builders are often asked to

(1) Development Control Statistics (Department of Environment, October-December 1981). The figures refer to the last quarter.

(2) F A Hayek The Constitution of Liberty (London: Routledge, 1960) pp353-4.

make their developments blend in with the 'character' of the locality, without it ever being specified what this means. Thus, the builder faces the costs of redesign without the certain knowledge that his efforts will be worthwhile.

Appeal costs Complicated and costly procedures for dealing with disputes between planners and the planned have also had a serious depressive effect on small business life in particular. The appeal system, run as it is by professionally qualified planners, gives greater weight to the cases put forward by other professionally qualified people than it does to the arguments of laymen. Local authorities can use this system, at public expense, to defend their decisions to the ratepayers: ordinary individuals, to make their point, have to employ equally 'professional' advocates if they are not to be dismissed summarily or to lose the issue by default.

Yet qualifications alone cannot determine which land **ought** to be used for various purposes, or what would constitute an acceptable development, since these are essentially matters of individual judgement. It therefore seems unjust that any group, however qualified, should be given almost complete control over what other people can do with their own property.

IS PLANNING REALLY NECESSARY

A number of studies of areas with and without planning controls have questioned whether controls have actually served to protect property values and whether the end result is any better than an unrestrained market could achieve (1). This modern research tends to show that discretionary controls are probably ineffective or counterproductive, and that they could be usefully removed.

If we examine what might occur in the absence of local authority planning controls, the result is by no means the tasteless and shoddy chaos which that class suggests. In the first place, there would still be controls. The regulations

(1) For example: John P Crecine, Otto A Davis, and John E Jackson, Urban Property Markets: Some Empirical Results and their Implications for Municipal Zoning, Journal of Law and Economics, Vol X, October 1967; Frederick H Rueter, Externalities in Urban Property Markets: An Empirical Test of the Zoning Ordinance of Pittsburg, Journal of Law and Economics, Vol XVI(2), October 1973; William J Stoll, Community Environment, Zoning, and the Market Value of Single Family Homes, Journal of Law and Economics, Vol XVIII(2), October 1975; Steven M Maser, William H Riker and Richard N Rosett, The Effects of Zoning and Externalities on the Price of Land: An Empirical Analysis of Monroe County, New York, Journal of Law and Economics, Vol XX(1), April 1977; Bernard H Siegan, Non-Zoning in Houston, Journal of Law and Economics, Vol XIII(1), April 1970.

which protect historic buildings and conservation areas, for example, are in many cases not dependent upon local authority powers, and neither are designated green belts or areas of outstanding natural beauty. The retention of Department of Environment protection for listed buildings, and the national policy of conservation of historic and rural areas would still act to prevent the much feared hamburger-stand-in-the-middle-of-feudal-England problem.

In the second place are the economic forces which act to locate residential, commercial and industrial properties in the most appropriate areas. Contrary to popular supposition, the world is not full of factory-builders awaiting the chance to pounce on residential avenues for the site of their smoking chimneys. Industrial development tends to cluster with its own kind because there are the transport facilities and the infrastructure which support it. The petrol station in the sleepy cul-de-sac is likewise a nonsense: it goes where its market is, by the side of busy roads. Developers of residential properties find there is more value by building them adjacent to existing housing, rather than placing them where no one wants to buy.

The third defence against chaos lies in the private institutions which would spring into being to perform the functions monopolized, but so inadequately performed, by public planning. Conditions for the granting of loans for building, or of mortgages for buying, would take account of the suitability of location and quality of building. In France, for example, the building code is a private one established by insurance companies and enforced by their own inspectors. Since without it there is neither help with building or buying, nor insurance against subsequent litigation, the standard is effectively maintained, even though totally private.

It is by no means rare in the United States to see private covenants filling a function which might otherwise require planning controls. In some areas, notably in Houston, private covenant deeds provide a private form of control on development which is both voluntary and flexible. Residents in certain streets or areas impose limitations on to the uses to which their property may be put, even after sale. These restrictions serve to enhance and sustain the value of the property, and are therefore very much in the owner's interest to sign. The fallacy of anticipating chaos lies in supposing anarchy to be the only alternative to public control. In fact the alternative is private control.

Private alternatives

The fourth restraint which would still protect, even if planning policy were swept away, is the law of nuisance. Most of the fears of unrestrained development centre on the nuisance of pollution or odour, noise or congestion. The law pertaining to nuisances might be a more effective method of dealing with such problems than the attempt to impose prior restraint. Planning

permission conveys a flavour of approval which offensive practices might not warrant, and might deter litigation which ought to take place. A tightened up law of nuisance, together with tough enforcement, might provide not only redress, but deterrence from most of the most feared products of development.

There is, fortunately, a chance to inspect the operation of private controls. The city of Houston in Texas has no public planning policy, and is the only one of the nation's 20 largest cities to lack one. It does have a planning department, but one which attempts to **forecast**, rather than to impose, a pattern of development. The department tries to develop public facilities in line with the progress which takes place as a result of private initiatives.

Of those top 20 cities, Houston's planning expenditure per head is half that of the next lowest, and just over one-tenth of the highest. Houston's population, rapidly approaching the two million mark, has twice rejected ballot opportunities to accept planning policy. Although the largest unplanned city, Houston is not the only one. Pasadena with 100,000, Beaumont with 114,000, Wichita Falls with 100,000, and Laredo with 70,000, all lack public planning controls to control development.

Without controls and imposed 'designated use' areas, building in Houston has gone largely where it has wanted to. There has been rapid adjustment to changing market conditions and economic progress, and speedy adjustments to the pattern of land use as these have been necessary. Some suburban areas have subdivisions with industrial parks, providing job opportunities close to home.

The advantages brought by diversity, rather than conformity, are illustrated by Houston. The mixed-use pattern provides local facilities for a relatively non-mobile population, while lower income areas have the advantages of services such as bars, cafes, laundries, and motorvehicle repairers, which are perceived as attractions by local residents. The ability to start a small business from one's own premises, be it bicycle or television repairs or a window-cleaning business, provides a low-overhead entry into the economy of the area.

Houston is not a city without controls. Quite apart from the economic and legal restraints, there are the private deeds, the restrictive covenants which number about 10,000 and cover two-thirds of the city. There is no doubt that this private method has provided at least as valid a method of control as public policy. Indeed, it is more valid in one sense: whereas the public plan tends to be an ideal that is subject to all kinds of anomalies and exceptions depending on the influence of the developer, the restrictive covenant has the protection of a more impartial legal system. Houston is able, where it wishes, to help its citizens to put into effect and enforce these private deeds.

NEW OBJECTIVES AND METHODS

While there has been abundant evidence illustrating the negative effects of local authority planning, which in our judgement is completely persuasive, we anticipate that further study of the alternatives will be necessary before the case becomes generally accepted and existing controls can be completely dismantled and replaced. Accordingly, we suggest that a certain amount of experimentation will be required useful in helping to assess the various options available.

Useful to this would be the promotion of a wide and varied range of different approaches on an experimental scale, so that the relative advantages and disadvantages can be assessed. For example, the extension of Scotland's existing restricted covenant (feu-charter) system might serve as a powerful example to the rest of the country.

This does not, of course, imply that immediate action to minimize the arbitrary powers of planners is not possible. Not only this, but measures to limit the opportunities for major local authority planning disasters can still be effected, while leaving the general rules for new developments intact.

The objective of reducing delays, simplifying appeals procedures, and creating a fairer balance between the public and the planners, can still be put into effect, even during a period of experimentation in which alternative approaches are being reviewed.

Towards a solution

There is no doubt at all that the removal of most of the planning restrictions and controls which are applied in Britain would bring major and lasting benefit to the community, and that more satisfactory ways could be found of achieving the beneficial part of their aims.

Tribunals. The major structural reform which suggests itself is the replacement of the entire system of detailed planning procedures by a series of low cost and easy-to-use land use tribunals. There is no reason why small-scale business activity should be ruthlessly barred from residential or agricultural areas. The use of cheap Nissen huts after the second world war enabled many small businesses to get started with low overheads. Similarly today, the use of barns and derelict farm buildings in the country, and of garages in the towns, offers real economic opportunity for people to develop new enterprises, starting part-time, then building up to commercial success and expansion.

The concern of the law should be to protect neighbours from nuisance, which comes down in practice to ensuring that those who live nearby are not abused by noise, pollution (including odours), or congestion. Small and relatively informal land use

tribunals should be established to decide on complaints of this nature, and to issue binding directives to offending parties. Published tolerance guidelines from the Department of the Environment would serve to inform developers of the standards required, and would enable the detailed bureaucratic procedures required at present for planning consent to be dispensed with.

Covenants. The second major reform involves the replacement of official planning controls by private covenants. The government should consider giving official help to communities wishing to draw up restrictive covenants on private properties in their area, and repealing the procedures which presently restrict building developments. The private covenant permits both variety and flexibility. It allows the residents of a council estate to take a different view on proposed developments in their midst to that which might be taken in an owner-occupied suburban avenue. It allows for opinions to change over time, and in response to new situations.

Private codes. The third structural reform is to place more reliance on private building codes and insurance requirements as an alternative to official regulation. Most reputable builders now follow voluntary standards which are commonly accepted throughout the industry, and these might be encouraged. But it is not necessarily desirable to prohibit private buildings of lower standards (provided that public safety is assured) so that cheaper housing is available for those who desire it. Any enforced standards would have to refer to the soundness of the structure rather than attempt to restrict the materials used, so that technological development in materials is not foreclosed. But safety and soundness could in any event be assured by a simple rule insisting that all property owners and developers were insured for strict public liability, so that checking for soundness would devolve from the planning authority to the insurance underwriters. Thus, a potentially unsound building would impose a large cost on the owner, making it cheaper for him to repair it or close it rather than face high but compulsory insurance premiums. It is likely that the checking procedures undertaken by the insurance companies, who have a direct commercial interest in the results, would be more efficient and responsive than the present system.

Immediate overhauls

These structural reforms may take some time to develop, but significant overhauls of the planning system could probably be made much sooner. The following are of this type.

Planning zones. Three different types of zones, which reflect the general division of land requirements, might be designated. **Restricted zones** would cover conservation areas, areas of outstanding natural beauty, and green belts, and would be under direct ministerial protection. Yet the procedures for planning applications and appeals inside them could be shortened. **General zones** would cover most other areas, and although there would be

minimum standards for safety and public health purposes, there would be no regulation of types of building, other than through nuisance considerations. **Industrial zones** would be designated in certain inner city or derelict areas where almost any development would be better than the prevailing state of affairs. Other than safety, public health, pollution, and other nuisance control, there would be almost no regulation in these zones.

There could be simplification and elimination of needless restrictions. For example, the general development order principle could be extended, with restrictions on minor matters being retained only where their removal would cause serious nuisance or inconvenience to neighbours. The imposition of local user conditions might be restricted to cases where development is being permitted in areas such as green belts, where it would otherwise be refused. The use classes order procedure could also use simplification and revision, with it being restricted to certain defined residential areas.

Reducing delays. The major grounds for complaint concerning the existing planning system is the time it takes for a local authority to make a decision. One solution might be to require local authorities, or at least those with the worst records, to invite tenders for the use of private planning consultants to process the work under contract. Furthermore, in view of the costs which delays impose on the applicant, it may be more fair to refund planning fees where a decision is not made within a statutory period. There may also be a case for awarding compensation to applicants, if an appeal tribunal agrees that the application was unreasonably refused or delayed.

In cases deemed to involve major public interest, such as large-scale industrial developments, any inquiry could be required to announce its decision at the end of public hearings, rather than after the expiry of further months of consideration. Statutory consultees, if they wish their views considered, might be required to submit them within a short period, for example, fourteen days.

Reallocating costs. Where a planning authority refuses an application, the appeal process puts the applicant at a disadvantage, because he has to meet his own costs, while those of the authority are passed on to the ratepayers. Yet not all refusals are based on a sound principle, many being the result of arbitrary decisions by officers or the ideological motivations of councillors. Since it is unreasonable that ratepayers should finance local authority costs in cases of this nature, alternative procedures might be explored so that decisions can be challenged more openly. For example, the party costs could be dispensed with, and costs awarded in written representation appeals only against the local authority.

Change of use. Delays and intransigence in permitting changes of use are a serious depressive factor in new business starts. Figures from the United States show that by far the majority of

build up sufficient capital to move to proper office accommodation. By preventing this dual use, Britain is losing many of the small businesses which will grow to be important employers of the future.

Yet the only substantial objection to people running businesses from home is the nuisance that it might cause to neighbours - particularly, congestion and noise, or unsightly advertising. A reasonable measure would therefore be to permit individuals to use household or other property for any new purpose, without planning permission, unless and until a complaint is received from anyone claiming to be affected by nuisances. A short reference list of nuisances would make checking a simple matter, and only if the complaint is upheld would formal permission have to be sought or would the new use have to be suspended.

In summary, the aim of these reforms is to replace the present planning policy and procedure by a system which retains protection for historic and rural areas, but which otherwise generally assumes planning consent. A combination of easily accessible land use tribunals to settle disputes and nuisance complaints, and encouragement of private restrictive covenants, will provide Britain with a development policy less bureaucratic, less subject to administrative abuse and whim, less costly and cumbersome, less inhibitive of development and enterprise, and more responsive to the needs and desires of the population.

6. PLANNING PROPOSALS

- (1) Low cost, easy-to-use land tribunals should be established, with powers to issue binding directives.
- (2) Land use covenants should be introduced in experimental areas to restrict land use in a similar way to Scotland's feu-charter system.
- (3) Small-scale business activity should be permitted much more generally in residential and agricultural areas, including that which uses residential, garage and farm building.
- (4) Laws should be framed to protect those who live near developments from noise, pollution (including odours) and congestion nuisances.
- (5) The Department of the Environment should publish tolerance guidelines relating to possible nuisance.
- (6) Government assistance should be made available to communities which wish to draw up private restrictive covenants in their area.
- (7) Encouragement should be given to the extension of private building codes by contractors and insurance companies, and to the establishment of private trade inspectorates to monitor compliance and issue certificates.
- (8) Public liability insurance should be required for all new developments or renovations.
- (9) Government should designate land, where appropriate, into **restricted zones**, to cover areas of outstanding natural beauty and green belts, with such zones coming under direct ministerial protection.
- (10) Designated **general zones**, covering most areas, should set minimum standards for safety and public health, and allow nuisance laws interpreted by land tribunals to act as a regulator.
- (11) Designated **industrial zones** should cover inner city or derelict areas where any change would be an improvement. There should be only such regulation as is needed for safety, public health and nuisance control.
- (12) The process for planning application and appeals should be shortened in all three types of zone, with timetables setting out the maximum times permitted for consideration.
- (13) The general development order principle should be extended, with restrictions on minor matters retained only where nuisance is threatened.

(14) Local user conditions should be limited to areas where development might otherwise be refused.

(15) Use classes orders should be simplified and restricted to certain designated residential areas.

(16) Local authorities with a poor record of response to planning applications should be obliged to invite tenders by private planning consultants for the processing of the work.

(17) Compensation should be payable to applicants if an appeal tribunal rules that the planning application was unreasonably refused or delayed.

(18) In cases involving major public interest, any inquiry should be required to announce its decisions at the close of public hearings, instead of months later.

(19) Statutory consultees should be required to submit any views within fourteen days.

(20) Planning appeals should dispense with party costs, and have costs awarded in written representation appeals only against the local authority.

(21) Assumption of use permission for household and other property should prevail unless and until a nuisance complaint is entered from a party claiming to be affected by the development.

7. Housing

INTRODUCTION

Although state intervention in the housing sector began over 150 years ago, it is only the the present century that it has had a major impact: the powers to build local authority housing under the Labouring Classes Lodging Houses Act of 1851 and a succession of amending Acts were not used widely. It was not until the first world war, with the imposition of rent control under the Rent and Mortgage Interest (War Restrictions) Act 1915, and its aftermath, with the start of significant council house construction under the Housing and Town Planning Acts of 1919, that the state became a significant force.

The consequences of state intervention have been dramatic but far from universally beneficial. In 1914, only one household in ten owned their own home, while 88% of houses were rented from private landlords. Today, six out of ten families own their own homes, three out of ten live in council houses, but less than one in ten (9%) live in privately rented accommodation. Very few pay directly the full cost of providing a roof over their heads; the buyer's mortgage interest attracts tax relief, while the council tenant not only gets the substantial benefit of low rents based on 'pooled historic cost' (rather than current value) but may well also be getting the added benefit of subsidies (from the tax payer and rate payer) and assistance with paying the rent. The private landlord even has to subsidize his tenants, through artificially suppressed rents - one of the chief factors causing the decline of the private rented sector - and they, in turn may be in receipt of assistance in paying the rent.

This position is chaotic, and clearly fails to meet public demand. In all three segments of the housing sector this shortfall is evident; many more people would like to own their own homes than actually do; the numbers wanting privately rented accommodation far exceed the available supply; and throughout the publicly rented sector thousands of unlettable houses stand empty while many people remain on waiting lists, hoping for a decent home. Despite a crude surplus of houses in most parts of the United Kingdom, serious problems of homelessness prevail. Clearly, radical action is required to deal with these problems, and to reintroduce the link between supply and demand.

Objectives

In an ideal world the allocation of housing, like any other commodity, would be subject to the interaction of supply and demand. This applies already to some extent within the owner-occupied area, where, subject to available income, people can buy bigger or smaller houses or change areas without any insurmountable difficulty. In the privately rented sector, however, the declining quantity of property available severely

limits choice. The publicly rented sector is different again, in that individual choice is arbitrarily limited by the imposition of politically inspired notions of 'need'. A tenant may desire to move, but fail to satisfy the council that he or she needs to do so; and even if he can prove his 'need' he may not qualify for a house of the type he wants. The difficulties can become insurmountable if a tenant wishes to complicate the process by moving between local authorities.

Ease of movement between sectors can vary quite considerably. To become an owner occupier is relatively easy, especially with the sale of council houses over the past few years. Finding privately rented accommodation can be much more difficult, but to become a council tenant in anything other than so-called 'difficult to let' property can be a lengthy and frustrating experience.

Solving the problem of inter-sectoral mobility, and establishing a healthy housing sector will need the acceptance of a new political and economic reality.

Choice. A key objective is the removal of the barriers which stand in the way of a proper exercise of consumer choice. Arm in arm with this is the need to provide a framework that will facilitate speedy transition to a pattern of tenure that accords with that choice.

Individual preferences, and the collective summation of those wishes, are not static, and should not be treated as such. A house and property market must be allowed to flourish to cater for the needs of the people. People may require different sized houses: they may have to move to new jobs or wish to be nearer to relatives; their financial circumstances may change. These are important needs which a property market should be able to meet. In a modern and rapidly changing society, a flexible and responsive housing system is a vital ingredient of mobility and progress, as well as of consumer satisfaction.

Mobility. A second objective, closely related to the first, is the removal of the factors and influences which impede ease of movement throughout the country's housing stock.

Far too many people are effectively trapped by subsidized council housing. They cannot move to seek work in a new area, for fear of losing their house, and having to start at the bottom of a huge waiting list in the new area. Clearly, a greater mobility in housing would lead to a greater mobility in jobs, and to a lowering of the unemployment rate.

Optimal use. A third objective is the creation of a framework to ensure that all homes which the public sector cannot or will not let are speedily transferred into private hands, and that all restraints that prevent private sector property owners from taking in tenants are removed.

Empty houses not only represent a waste of scarce resources and a loss of income to the owners, but they also deny people the opportunity of a home of their own. If left empty for any significant length of time, they will start to need extra expenditure on maintenance to repair the damage caused by the weather and vandalism.

While some properties have to be demolished to make way for new developments, others are allowed to deteriorate to the point where there is no alternative to them being knocked down. All too many houses are destroyed because the same councils that built them - in the form of huge blocks, and on estates, that no-one wants to live in - are ideologically opposed to private enterprise solutions to their problems.

It is obviously desirable to ensure that habitable homes are demolished only where some development requires it, or when all possible alternatives have failed.

Less intervention. Far too much of what is wrong with housing today can be directly attributed to political intervention over riding individual choice and initiative. Well-meaning government ministers have sought to solve the housing problem without either understanding the economic reality of the situation, or assessing the likely consequences of their actions. Less well-meaning local councillors have used housing as a political weapon, with estates being used to redraw the political map and cheap rents exchanged for votes. Both have built accommodation for other people that they would not care to occupy themselves.

A further objective of housing policy would be to minimize political interference in the housing market. Housing ministers of all parties, and local councillors of every political hue, have taken credit and pride in the supply of public housing. The rewards of stepping back to allow viable private alternatives to develop have been less evident, and less satisfying to the political ego.

THE PRIVATE SECTOR

Minimizing the costs of movement and ensuring the most efficient use of the housing stock are vital for the continuation of a healthy private sector. More specifically, there exist certain factors which restrict these requirements: the erratic supply of mortgage funds; the costs involved in moving house; the restraints on upward mobility imposed by limits on income tax relief for mortgage interest; the incidence of stamp duty; and the lack of a developed secondhand market. Each of these warrant specific treatment to cut back the limitations on choice and to permit the creation of a market-orientated housing sector.

The recent ready availability of mortgage finance has now been replaced by a relative shortage of funds. This has been caused partly by successful political pressures to keep building

society interest rates down, and partly by the high level of the government's own borrowing in direct competition with the building societies. This 'crowding out' effect is caused by the government borrowing at the expense of private institutions - governments have the advantage of complete security for a loan because they can always print more money, an option not available to the private sector.

The situation will ease to some extent as general interest rates come down, and the building societies are able to match them competitively without political pressure. **There are, however, two things which government can do to assist the flow of funds. Firstly, it should seek to curtail its own level of borrowing, especially where this is in direct competition with the building societies.** There is no doubt that the use of capital sales to reduce borrowing will help bring down the pressure on interest rates. **Secondly, the government can encourage lending for house purchase from a much wider variety of sources.** There is good reason to suppose that funds attracted to home loans for profit can provide an important supplement to the present flow.

Conveyancing. The physical costs of moving house are an unavoidable burden, but it is within the government's power to reduce the legal costs which can far outweigh them. For example, title registration has considerably simplified the conveyancing of freehold property, and there can be little problem in extending it to the whole of the UK. In addition, **the simplification of conveyancing as a whole has weakened the already weak argument for retaining the solicitors' monopoly.** Such a monopoly benefits only those who provide the service: it puts up prices by restricting competition.

Conveyancing of leasehold property, particularly flats, presents greater difficulty. Extensive work and legal ingenuity goes into drawing lengthy documents all seeking to ensure the maintenance of the building in good repair, and to have clearly assigned rights and obligations. They do so in so many different ways, however, that they require checking in great detail every time a property changes hands. On a number of occasions, Parliament has approved measures to regulate the relationship between landlord and tenant, particularly regarding service charges. There is good reason to lay down a similar basic framework in legislation with some encouragement for its use. Therefore, **a statutory lease formula should be created with an appropriate concession for its use, or penalty for its non-use.**

Leases. The right to buy freeholds has not thus far been extended to flat-dwellers because of the complexities of assigning parts of the fabric of the building and its ground to different flats. **We suggest that powers should now be granted to leaseholders, giving them the right to buy the freehold, using intermediate block associations as the necessary legal vehicles.** The individual flat-owner would buy out the freehold through the agency of the block association.

Duties. Stamp duty on house purchases exemplifies the way in which the government gives with one hand and takes with the other. When a house's price exceeds £25,000 it starts at 0.5%, but rises to 2% where the price is greater than £40,000. It makes no sense to encourage home ownership by giving tax relief on mortgage interest and in respect of capital gains, yet to penalize the actual purchase itself. Ideally, stamp duty should be abolished. At the very least it should be restored to the £100,000 starting level it stood at when initially introduced in 1974.

The market. A unique weakness of the private housing sector lies in the absence of any significant secondhand market, and there appears to be no major reason why this should be the case. With almost every other commodity there are dealers who buy and sell, and hold stocks so that a vendor who cannot make a direct sale can always find a buyer. In housing, this is not the case. With the exception of a small number of builders who accept former houses as part exchange for new ones, there are no property dealers. This means that every would-be seller has to sell his or her property to someone who wishes to live in it, and that the purchaser must, in turn, do likewise. Lengthy chains of interdependent deals are the consequence, and so too are lengthy delays when the chain is broken owing to one of the transactions falling through.

One reason for this is the complexity of the transfer process. A buyer for a £36,000 car can walk in from the street and complete the purchase within minutes. For a house selling at the same price, he would be fortunate to have the deal completed within three months. Clearly, the simplification of the conveyancing process and the end of the legal monopoly will help accelerate the process of transfer. The government should also consider ways in which intermediate property companies can be encouraged to invest in housing on a retail basis. This would give potential sellers the option to completing a rapid sale by going to a dealer; and it would give buyers a similar option.

THE PUBLIC SECTOR

If the owner-occupied sector of the housing market requires modest changes to improve its efficiency and its ability to meet consumer demand, the public sector requires many more fundamental and far-reaching changes. Price plays a vital role in the private market for housing. It conveys the information about supply and demand. It instructs the builder into the types of homes which are sought, and the locations which are looked for. It directs the expectations of the buyer, and enables him or her to express preferences. It thus serves to allocate and to increase the available supply. No such price information is available within the public sector, where the tradition has been one of supplying below-cost housing based on perceived needs.

As one might expect with a below-cost product, demand has far

exceeded supply. Because price-allocation has not been used in the public sector, alternative limits on distribution have emerged. Houses in the public sector have been allocated by queuing, by rationing, and by political influence and pressure. Most councils have used some form of points system, under which an applicant can climb a waiting list of several years' length by accumulating a score in several categories deemed to be deserving.

Public demand has been expressed only in crude forms, such as the preference to stay a few more years on the waiting list rather than moving into one of the problem estates. The supply, more oriented to the needs of the producers than the consumers, has often derived from political considerations, from the personality of those in authority, or simply from a preconception in favour of people living lives which are planned by others. Without the input of price information to illustrate demand, and in the absence of the disciplines of competition, the public sector has become inefficient, wasteful and costly, has discouraged mobility, and has allowed no place for consumer preference to determine its supply.

Sale of council houses

The sale of council houses has shown just the tip of the iceberg of potential demand for owner-occupied accommodation. Unfortunately, many tenants who would like to buy their own home, have reached an age where there are not enough working years left for them to pay off the size of mortgage required under existing legislation. It is quite possible that they may have lived in their accommodation for many years above the present maximum discount period, and are not benefitting from it. **To overcome this we propose that the discount scheme should be increased from the 30 years presently proposed to 50 years**, allowing a maximum discount of 80% on the price of a council house.

There is a problem of some councils not co-operating with council house sales, and depriving potential buyers of the legal right to acquire their own home. Some are unduly slow in processing applications; others put more direct obstructions in the way of potential buyers. In cases of recalcitrance, these rights can be protected if the government were to step in and transfer the process of sale to the hands of private estate agents, solicitors and valuers. **In all cases, councils should be obliged to face tenders from private property dealers for handling the sale of council property.**

Selling council houses can be a useful source of funds for any councils, since it not only brings in money directly, but also removes the responsibility for maintenance and upkeep from the council. However, councils still have a responsibility for the elderly and the disabled, and should be encouraged to use their finances to concentrate on this area. Any surplus of funds can be used to reduce borrowing and the level of indebtedness.

A further barrier to council house sales lies in the somewhat arbitrary provision (in the 1980 Housing Act) that public sector houses must not be sold at less than their original cost if they were first let after 31st March 1974. In times of high inflation, this may not seem a serious barrier, but with inflation now lower, it effectively debars tenants of such houses from receiving the discounts which the same act offers to their fellow tenants. There is no obvious reason for choosing this date as a baseline.

While the removal of this unnecessary restriction would lead to some houses being sold at an historic loss, the numbers involved would be very small compared to total sales, and would be outweighed by the capital profits on other sales. With this in mind, the date set for restricting the discount on newer houses should be abolished, allowing the discount to apply to any house built at any time. **The only limitation would be the requirement that the buyer should have actually resided in the house he wishes to buy.** In other words, the powers that the government are seeking under the Clause 3(3) of the Housing and Building Control Bill should be used to their fullest extent at the earliest possible date.

The low start mortgage

The rate of sale of council houses could be accelerated by giving official backing to low start mortgages. Under a conventional mortgage, the cash repayments remain fixed for a given interest rate. Inflation gradually devalues them, so the effort of repayment declines over the course of the mortgage. In practical terms this means that the heaviest burden falls at the start, when young married couples have to equip a home, raise children etc., and are at their lowest earning point. But contrast, when the outgoings are lowest, the children have been educated and left home, and income has reached a high point, the burden of mortgage repayment is lowest in real terms.

The low start mortgage recognizes these problems. It starts the repayments low, and gradually increases them over the course of the repayment period, in line with increasing ability to pay and decreasing obligations. Very often the low start mortgage keeps the repayments constant in real terms, so that the cash repayments increase at the same rate as inflation.

Obviously a low start mortgage offers the chance of home ownership to many council tenants who could not undertake a conventional mortgage. In many cases the initial level of repayment may well be at or below the cost of renting - a powerful incentive to purchase. Now that the courts have ruled that building societies can offer such mortgage schemes, government should co-operate to the fullest. It should make known the availability and advantages of low start mortgages, and require local councils to guarantee them in the same way in which they guarantee conventional mortgages.

More importantly still, the government should include them in its relief programmes, offering assistance in cases of hardship. Council tenants who buy under mortgages should have the security of knowing that the government will help with payments in cases of distress, and at a level equal to the support which it makes towards rent payments in such cases. The relief of hardship by assisting with mortgage payments is certainly no less valid than doing it by assisting with the rent.

Using empty houses

Over the past sixty years local councils and other government agencies have built over six million homes, some of them highly desirable dwellings. In some cases, however, the estates created lack any features to make them attractive places to live. Some are positively unpleasant. It seems hardly surprising that last year local authorities admitted owning nearly 300,000 houses which they found 'difficult to let', while 13 councils revealed that they had more than 500 houses which had been empty for more than 12 months.

A number of councils have shown some imagination in dealing with their difficulty in letting houses, by using a variety of arrangements in conjunction with private enterprise to improve the quality of blocks of flats and estates. Selling the renovated property has helped them avoid the costly options of demolition or repair while satisfying the builders' need for work and the demand for more owner-occupied accommodation. Eliminating the waste involved in keeping homes empty, by encouraging their transfer to the private sector, would also help to meet some of the demand for owner occupation throughout the population.

Demolition of council property should only be a last resort, after sale to private renovators has been attempted without success. Unless the space is required for essential projects, the council should be required to seek tenders for sale and restoration of the properties.

We also suggest that **an individual or company should be able to set in motion the compulsory sale of any local authority house or flat which has been empty for more than three months, unless valid reasons are presented to justify its being kept vacant.** Ideological objection to private ownership would not feature among the acceptable justifications.

Every local authority should be instructed to draw up and publish a monthly list of all of its vacant houses, with details of the duration of the vacancy, and the reasons for it (if any). This list would serve to inform the electorate and prospective buyers of what property is unused and available.

Council rents

For those who wish to remain tenants, it is essential that steps are taken to ease mobility as the present allocation policies almost invariably favour those who remain in the same area for lengthy periods of time. With little differentiation in rent between desirable and undesirable houses (or areas) there is every incentive to refuse offers until an attractive one is made. If already a tenant, the incentive is to stay put until the allocation system permits a transfer to somewhere better.

Nor does the system only reward those who stay put; it penalizes those who try to move. While a council may accept that it has an obligation to house incoming workers, and may even be willing to make speedy offers of accommodation, it is unlikely to offer its best houses. Anyone who has qualified by length of service for the best of his home town's housing will think twice before throwing away that advantage. The co-existence of empty houses and long waiting lists shows what effect the lack of any real differentiation in rent has had on the public sector housing market.

All these problems are due to a reluctance to accept economic reality, especially the role of price in matching supply and demand. In the private market there is little difficulty in most parts of the UK in moving between houses; when allocation is by price, there are no accusations of 'jumping the queue'.

The need, therefore, is for councils to develop new economic rent structures which reflect the relative demand for different types of houses and different areas. The government can give assistance to this exercise, drawing on the experience of the district valuer's office and the handful of councils that already have introduced such schemes.

The target which authorities should be obliged to aim at is a rent structure based on the market value of the individual house, rather than on any pooled historic cost. While relief will be needed in cases of special need, it should be clearly assigned to the beneficiary, rather than regarded as a benefit which comes with the bricks and mortar.

Recent initiatives have already gone some way toward reducing the subsidy available for rented public housing. Now there is a need to set out a timetable under which subsidies to housing revenue accounts are withdrawn, and new measures to prevent authorities using local revenues to subsidize housing. This will have the effect of transferring the support to the individual in need, and restoring the housing itself to a more realistic economic state.

New building

Councils should be encouraged to concentrate their resources on

areas of specific need, such as provision for the elderly and the disabled. New building, including major rehabilitation of derelict blocks, should be permitted only within these designated areas of need. The spread of an economic rent structure reflecting market differentials, combined with the new schemes for transfer of ownership to tenants, are likely to make demand in the private owner-occupied sector even larger than it is already. Councils have a key role to play in making land available for the satisfaction of that demand, rather than holding onto it in the vain hope that some future government might permit a return to the building of giant council estates.

Even for the provision of sheltered housing, there is much evidence that private firms and associations give efficiency and value beyond that which most local authorities can achieve. Where sheltered housing is proposed, private enterprise must be allowed to tender for the complete job, including subsequent management. The role of the council becomes one of ensuring that provision is made to meet need, rather than one of attempting to meet those needs itself from its resources and using its own manpower.

OTHER MEASURES

The housing association movement

Enjoying the support of successive governments of both major parties, the housing associations have flourished in recent years. They have provided half a million homes and are currently building nearly two thirds as many houses as the local authorities. Their rents are fixed under the 'fair rents' procedure and government subsidy is given in the form of a capital grant to reduce costs to a level which the rents will cover, plus a revenue deficit grant to cover shortfalls in the early periods of developments. On average, rents are about 25% above council levels.

Under government guidance, via the Housing Corporation (a Quango), housing associations have principally catered for people whom local authorities could not or would not house: the young, the disabled, the elderly and single people. The involvement of private sector architects, builders and surveyors has helped avoid the disasters that afflict the public sector and, perhaps because the tenant pays more and the wrong type of property could remain unlet, the associations have been more responsive to their tenants' desires than have local authorities.

They have done well in catering for groups in society with special needs and in restoring older property, often in the declining city centres. They avoid the social stigma attaching to council house estates and their rents cannot be manipulated to buy votes in local elections.

Many older people, especially those who have made provision for their retirement, are capable of paying the economic cost of entry into sheltered housing. Others are capable doing so with help willingly given by their families. This applies to some of the other groups in special need. This is evidenced by recent successes of sheltered housing built in unified schemes by private, profit-making concerns. **Clearly, there is a demand for sheltered housing at market prices, as well as for that which is presently subsidized. Local authorities should be required to make their land available for private sheltered housing, and to invite tenders for such schemes.** In this way part of the burden is removed without cost, and more resources are available for areas which do need support.

The government could very usefully commission a complete review of the performance of sheltered housing to discover if initial capital grants to such projects are an effective way of restoring independence to those in special need, and whether this is more efficient than continuing subsidy at a later stage.

THE PRIVATE RENTED SECTOR

Privately rented accommodation, although nominally in the private sector, is so dominated by government regulation that it forms part of the housing economy whose outcome is determined by public policy.

The history of privately rented housing in the twentieth century has been one of steady decline, as government intervention in the form of rent control and security of tenure has ensured that the landlords were impoverished and their property effectively destroyed. It must be doubtful whether there can be any significant reversal in this trend, because no government, however sympathetic to the private landlords cause, can guarantee that its sympathy will be echoed by its successors.

Nonetheless, there are very strong reasons for seeking to encourage a revival. Firstly, lack of accommodation is at its worst in the large cities and it is precisely there that surplus accommodation could be released if suitable incentives were offered to existing and potential landlords. Secondly, the private landlord is best fitted to accommodate the young and mobile who do not choose to, or initially cannot afford to, own their own homes. And thirdly, every survey shows that it is the privately rented sector that offers the highest degree of mobility to its occupants.

Unfortunately landlords, according to DOE figures, can gain only a three per cent return on their investment under 'fair rent' legislation. It is hardly surprising that not many of them are rushing to bring new rent-controlled property onto the private letting market.

The problem with immediate decontrol is that almost two million

families are private tenants. Many of them have entered into commitments under the assumption that controls will continue. But landlords who are forced to subsidize them are not in every case richer than the tenants themselves. While a market situation with regard to rents would bring new properties forward for letting, and thus bring downward pressure on rents, the short-term problem is one of hardship which immediate rent increases might bring.

Rent control should, in our view, be ended immediately for all new tenancies. This will have the effect of containing the problem and bringing it gradually under control. It will encourage new properties to come on the market at profitable rents.

There should similarly be an end to security of tenure for all new tenancies. This, too, will not affect existing tenants, but will encourage many more people to let empty property for fixed period leases, without the fear of having the house permanently lost to tenants who refuse to move. The existing law might be designed to prevent homelessness, but it does so by permitting tenants to steal property from landlords. By removing this danger, the government will bring many more properties onto the market.

As existing tenants moved, or died, the property would revert to the landlord and could be leased without the controls to new tenants. Thus, over the years, the proportion of controlled property would diminish. Landlords might even find it worthwhile to buy tenants out of existing leases, in order to refit the property and lease it again.

The Secretary of State could use his existing powers under Section 143 of the 1977 Rent Act to phase out rent control over a number of years, even for existing tenancies. By starting this in experimental regions first, there would be opportunities to deal gradually with the problems which accompanied the transition.

The supply of former council houses, now privately-owned, and the end of the punitive tax on investment income, will give a considerable boost to the private rented market, provided that rents and tenure have been decontrolled for new tenancies. This should lead to a situation in which a plentiful supply meets a constant and mobile demand.

8. SUMMARY AND CONCLUSIONS

The impact of public sector policies on housing in Britain has been one of major and adverse effect. The twin policies of rent control and the provision of local authority subsidized housing have prevented a real market in housing, and prevented a supply becoming available to meet the demand. The results have been wastages, inefficiencies and shortages throughout the housing sector.

Indications from the housing market suggest that there is a huge and unsatisfied demand for owner-occupation on the one hand, and a large, mobile demand for flexible private rented accommodation. Much of the demand for owner-occupation can be satisfied by much larger transfers of council housing into the hands of sitting tenants. The demand for rented accommodation, on the other hand, will only be met by a huge increase of available properties; and this, in turn, will require making house-letting a more attractive proposition.

There is great scope for conservation and more efficient use of the existing stock of housing, with more imaginative measures being deployed to promote the renovation of decayed units. There is scope, also, for taking the whole problem of housing out of the local political arena, and contriving a situation in which both ownership and rent are regulated not by political whim, but by demand for them and the supply which can be generated to meet it.

What is needed most of all is a new philosophy, an outlook which recognizes that the imposition of a preconceived order of housing will not meet the actual needs. In place of that centralized order, the new philosophy will seek to foster the conditions in which a spontaneous response is possible to a variety of changing housing needs. If the conditions are there, then buyers and sellers can, by their interactions, meet those needs far more adequately and with greater flexibility, than can any group of planners with notions of what people ought to receive.

THE MAIN PROPOSALS

- (1) Government should curtail borrowing, especially that which competes with building societies. The proceeds of capital sales should be deployed to reduce both borrowing and indebtedness.
- (2) Government should act to encourage lending for house purchase from a wider variety of sources.
- (3) Action should be taken to further simplify house titles, and should include the publication of a model title.
- (4) Measures should be taken to end the monopoly on convey-

ancing enjoyed by solicitors.

(5) A statutory lease should be drawn up, with encouragement for its use.

(6) Government should extend the right to purchase freeholds of private housing to cover the buying of freeholds for flats through intermediate bodies established to hold responsibility for the block.

(7) Stamp duty on house purchase should not apply until the £100,000 level. It should be phased out over a period of years.

(8) The government should encourage the development of a secondhand market in housing, in which dealers are able to buy houses to sell subsequently.

(9) The council house sales discount scheme should be extended to cover fifty years' residence, with a maximum discount of at least 80%.

(10) Councils reluctant to sell council houses to their tenants should have this power taken away and assigned to private estate agents, solicitors and valuers.

(11) Councils should be obliged to invite private tenders for handling and processing the sale of council houses.

(12) The date limit set for restricting the discount on council house sales should be abolished.

(13) Government should publicize the availability of low start mortgages from building societies, and require councils to guarantee them in the same way as conventional mortgages.

(14) Government should provide distress relief towards mortgage payments by council house buyers at a level not less than their present support for rent payments.

(15) Demolition of council blocks should be prohibited until private renovators have been given the opportunity to tender for purchase, restoration and sale.

(16) Every local authority should be required to draw up and publish a monthly list of its vacant houses.

(17) Individuals and companies should be enabled to initiate the sale of council properties left vacant for more than three months, unless valid reasons are presented to justify the vacancy.

(18) Government should assist councils in preparing new economic rent structures which reflect demand for different types of house and different areas.

ancing enjoyed by solicitors.

(5) A statutory lease should be drawn up, with encouragement for its use.

(6) Government should extend the right to purchase freeholds of private housing to cover the buying of freeholds for flats through intermediate bodies established to hold responsibility for the block.

(7) Stamp duty on house purchase should not apply until the £100,000 level. It should be phased out over a period of years.

(8) The government should encourage the development of a secondhand market in housing, in which dealers are able to buy houses to sell subsequently.

(9) The council house sales discount scheme should be extended to cover fifty years' residence, with a maximum discount of at least 80%.

(10) Councils reluctant to sell council houses to their tenants should have this power taken away and assigned to private estate agents, solicitors and valuers.

(11) Councils should be obliged to invite private tenders for handling and processing the sale of council houses.

(12) The date limit set for restricting the discount on council house sales should be abolished.

(13) Government should publicize the availability of low start mortgages from building societies, and require councils to guarantee them in the same way as conventional mortgages.

(14) Government should provide distress relief towards mortgage payments by council house buyers at a level not less than their present support for rent payments.

(15) Demolition of council blocks should be prohibited until private renovators have been given the opportunity to tender for purchase, restoration and sale.

(16) Every local authority should be required to draw up and publish a monthly list of its vacant houses.

(17) Individuals and companies should be enabled to initiate the sale of council properties left vacant for more than three months, unless valid reasons are presented to justify the vacancy.

(18) Government should assist councils in preparing new economic rent structures which reflect demand for different types of house and different areas.

- (19) Government subsidy to housing revenue accounts should be phased out, and legislation enacted to forbid the use of local revenues for this purpose.
- (20) New building by councils should be restricted to designated categories of special need.
- (21) Local authorities should be required to release their land holding for private house-building and private sheltered housing.
- (22) Sheltered housing projects should be open to competition from private builders, including the subsequent management services.
- (23) The government should undertake a complete review of the performance of sheltered housing, to investigate whether an initial capital grant is more efficient than later intervention in rent levels.
- (24) Rent control should not apply to new tenancies.
- (25) Security of tenure should not apply to new tenancies, its place being taken by voluntary agreements covering fixed period leases.
- (26) Section 143 of the 1977 Rent Act should be invoked to phase out rent control of existing tenancies in experimental areas.

APPENDIX A

LOCAL AUTHORITIES (DISPOSAL OF LAND BY PUBLIC AUCTION) BILL

EXPLANATORY MEMORANDUM

The Bill provides a means whereby members of the public may cause a local authority to offer for sale by way of auction land held by them but which is surplus to their needs. The Bill relates to land which is registered as land held by the local authority under section 95 of the Local Government, Planning and Land Act 1980. Such land which in the opinion of the Secretary of State is land not being used or not being sufficiently used for the purposes of the performance of the local authority's functions.

Clause 1 disapplies the power of the Secretary of State to direct the local authority to sell such land so that there is only one cause for sale in respect of such land which is under this Bill.

Clause 2 sets out the procedure for causing a sale. A person serves a public auction notice on the local authority. The local authority either accepts that notice and is then bound to offer the land for sale by auction or it may not accept the notice if certain conditions are met. These relate to the immediate development of the land by the local authority.

Clause 3 establishes the procedure for holding an auction under the Bill.

Clause 4 gives the Secretary of State reserve powers if he considers that the effect of the Bill is being hampered by groups of local authorities or a local authority.

Clause 5 is procedural, clause 6 is the Interpretation clause, clause 7 is the commencement clause.

LOCAL AUTHORITIES (DISPOSAL OF LAND BY PUBLIC AUCTION) BILL

An Act to give members of the public a right to cause the sale by way of public auction of surplus land held by local authorities; to require local authorities to hold public auctions of such land; to make provisions with respect to the holding of public auctions and for connected purposes.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:-

1. In Schedule 16 to the Act of 1980 paragraphs 1, 2, 3, 4 and 5 shall cease to apply in respect of sections 98, (which provides for the Secretary of State to give directions for the sale of land) and 99 (Supplementary Provisions) of that Act. disapplica-
tion of Act
of 1980

2. (1) Where any land to which this Act applies is held by a local authority any person may serve on that local authority a public auction notice in respect of that land. Right to
call for
sale of
land by
public
auction

(2) This Act applies to land which is entered on the register of land which the Secretary of State has compiled under section 95 of the Act of 1980.

(3) A public auction notice may specify more than one interest in land and may specify more than one parcel of land.

(4) Where a person serves on a local authority a public auction notice shall (unless the notice is withdrawn) serve on the person who served the public auction notice within 42 days thereof either,

(a) a written notice (an acceptance notice) accepting the public auction notice; or

(b) a written notice (a non-acceptance notice) stating that in the opinion of the local authority any interest in land specified in the public auction notice cannot be disposed of without serious detriment to the performance of their functions, and stating -

(i)(A) that the land to which the interest relates is specified in the local plan as land to be developed by the local authority within 12 months of the date of the non-acceptance notice; or

(B) if the local authority are the relevant local planning authority that the Secretary of State has given permission to the local authority under section 270 of the Town and Country Planning Act 1971 for development of that land; and

(ii) that the local authority have included provision for cost of the development of the land to which the interest relates in their budget current at the time of the serving of the non-acceptance notice.

(5) Where a public auction notice is served after the 31st in any year effect of a non-acceptance notice in respect of it shall cease upon the 31st March in the year next following if no development of the land to which the notice relates has taken place before that date.

(6) Where a public auction notice is served on or before the 31st March in any year a non-acceptance notice served in reply thereto shall be valid notwithstanding the provisions of subsection (4) above if it fails to comply with those provisions only in so far as no statement to the effect of subsection (4)(b)(ii) above was contained in the notice;

Provided that -

(i) if no provision is made in the local authority's budget for the financial year commencing on 1st April next following for the development of the land to which the notice relates by the local authority, the effect of the non-acceptance notice shall cease upon the 1st April next following its service; or

(ii) if such provision is contained in that budget but no development is commenced in respect of that land to which the interest relates before the termination of the financial year to which the budget applies, the effect of the non-acceptance notice shall cease.

(7) The effect of a non-acceptance notice served under this section shall so long as the notice has effect be that -

(a) a local authority shall not be under a duty to offer their interest in the land to which the notice relates for sale by public auction; and

(b) any further public auction notices served in respect of the land to which a non-acceptance notice is in force by a person on whom a non-acceptance notice has been served in respect of that land shall not be of effect under this Act.

(8) Where the effect of a non-acceptance notice ceases under this section a person, whether or not he has already served a public auction notice in respect of any interest in land to which this Act applies, may serve a public auction notice in respect of the interest in land to which the former non-acceptance notice applied.

(9) A person who serves a public auction notice under subsection (1) above may withdraw it any time in writing served on the local authority on whom it was served.

(10) A local authority may serve both an acceptance notice and a non-acceptance notice in respect of different interests in land or different parcels of land upon a person who served upon them a public auction notice which specified more than one interest in land or more than one parcel of land.

3. (1) Where a local authority serves an acceptance notice the local authority shall within a period of 42 days from the serving of that acceptance notice offer for sale by auction the interest in land to which the public auction notice relates. Sales by auction

(2) Before holding a sale by auction to which this Act

relates a local authority shall within 7 days of serving an acceptance notice give notice of the auction by advertisement in one or more local newspapers circulating in the area of the authority.

(3) In respect of a sale by auction to which this section relates a local authority shall not fix a reserve price on any interest in land greater than 90 per centum of the value certified by the district valuer as the value of the interest in land based on the current use of the land at the time of the auction.

(4) In respect of a disposal of land resulting from a sale under this section sub-section (2) of section 123 (which requires the consent of the Secretary of State for disposal below market value) of the Local Government Act 1972 shall not apply.

4. Where it appears to the Secretary of State that persons generally, or persons serving public auction notices on a particular authority, or persons serving public auction notice on local authorities of a particular description have or may have difficulty in securing the sale of land effectively and expeditiously, or where in the opinion of the Secretary of State a local authority has served an excessively high proportion of non-acceptance notices in relation to the number of public auction notices served upon them taken in relation to the area of land which both types of notices relate to as compared to the total land registered under section 95 of the Act of 1980 held by the local authority, the Secretary of State shall be empowered to exercise his powers under Part X of the Act of 1980 as if local authorities or local authorities of a particular description, or a particular local authority were bodies which were specified in Schedule 16 to that Act.

Reserve powers of Secretary of State

5. (1) The Secretary of State may by regulations prescribe the form of any notice under this Act and the particulars to be contained in any such notice.

Notices

(2) Any notice served under this Act may be served by sending it by post.

6. In this Act -

"acceptance notice" means a notice issued under section 2(4)(a) of this Act;

"Act of 1980" means the Local Government, Planning and Land Act 1980;

"development" has the meaning assigned to it by section 22 of the Town and Country Planning Act 1971;

"local authority" means a county council the Common Council of the City of London a district council the Greater London Council or a London Borough council;

"local plan" means a plan prepared in accordance with the provisions of section 11 of the Town and Country Planning Act 1971;

"local planning authority" has the meaning assigned to it by section 1 and Schedule 3 to, the Town and Country Planning Act 1971;

"public auction notice" means a notice served on a local

Interpretation

authority under this Act and which calls upon the local authority to offer for sale by way of auction of an interest in land specified in the notice;
"non-acceptance notice" means a notice issued under section 2(4)(b) of this Act.

7. (1) This Act may be cited as the Local Authorities Citation
(Disposal of Land by Public Auction) Act 1983 and
(2) This Act shall come into operation on the expiry of a commence-
period of eight weeks beginning with the day on which this Act is ment
passed.
(3) This Act extends to England and Wales only.

APPENDIX B

REALLOCATION OF COUNTY RESPONSIBILITIES

FUNCTION	NON-MET COUNTIES	MET COUNTIES	GLC
Personal social services	TD	-	-
Education and related services			
Education	RFCG	RFCG	*ILEA
Libraries	TD	-	-
Museums & art galleries	TD	TD	-
Arts and crafts	TD/A	TD/A	-
Housing and town development			
Certain reserve powers	RF	RF	RF
Town development	TD	TD	TB
House building	-	"	"
House management	-	"	"
Slum clearance	-	"	"
House and area improvement	-	"	"
Planning and related matters			
Structure plans	RF	RF	-
Local plans	TD	TD	-
Development control	"	"	TB
Land Acquisition	"	"	"
Clearance of derelict land	"	"	"
National parks	DOE	DOE	-
Country parks	TD	TD	-
Footpaths & Bridleways	"	"	-
Commons - management	-	-	-
- registration	TD	TD	-
Caravan sites -			
licensing & management	-	-	-
provision	TD	TD	-
Gypsy sites -			
management	-	-	-
provision	TD	TD	-
Smallholdings	S	S	-
Allotments	-	-	-
Designation of conservation areas	TD	TD	TB

Highways & related subjects

Transport planning	RF) CTA) MTA
Highways	TD))
Traffic	"))
Parking	"))
Public transport undertakings - operation	-	-	-
co-ordination	RF	-	RF
Passenger transport authorities	-	S/S	S/S
Road safety	TD	TD	-
Street lighting	"	"	-

Environmental health

Food safety and hygiene	-	-	-
Control of communicable diseases	-	-	-
Office, Shop & Railway Premises Act	-	-	-
Factories Act	-	-	-
Port health	-	-	-

Other environmental services

Local sewers	-	-	-
Local drainage	TD	TD	-
Refuse Collection	-	-	-
Litter	-	-	-
Refuse disposal	TD	TD	TB
Coast protection	-	-	-
Clean air	-	-	-
Building regulation	-	-	-
Street cleansing	-	-	-
Nuisances	-	-	-
Cemetaries & crematoria	-	-	-
Markets	-	-	-
Offensive trades	-	-	TB
Health education	TD	TD	-

Consumer protection

Weights & measures	TD	TD	-
Food and drugs	"	"	-
Trade descriptions	"	"	-
Consumer Protection Act 1961	"	"	-

Police and fire

Police	NB	NB	NB
Fire	"	"	"

Recreation & tourism

Playing fields & swimming baths	TD	TD	-
---------------------------------	----	----	---

Parks & open spaces	"	"	TB
Physical training & recreation	"	"	"
Tourism publicity	"	"	"
Licensing & registration			
Most	-	-	-
Births, deaths, & marriages	TD	-	-
Adoption societies	"	-	-
Other services			
Entertainments	S	S	S
Aerodromes	S	S	-
Natural emergencies	TD	TD	TB
Restaurants	-	-	S

Key

TD	Transfer to districts
TB	Transfer to boroughs
*ILEA	Directly elected ILEA
RFCG	Return funding to central government
TD/A	Transfer to districts or consider for abolition
RF	Remove function
DOE	Transfer to Department of Environment
S	Items to be sold
CTA	Transfer to new conurbation transport authority
MTA	Transfer to new metropolitan transport authority
S/S	Split into smaller units and begin sales
NB	Transfer function to new boards

The reallocation of local government is a complex legislative matter, as the case of London illustrates. The principle enactment here is the London Government Act 1963. Legislation would repeal the constitution of the GLC and declare it to have been abolished. Secondary legislation would then be required to deal with the transfer of property held by the GLC to other bodies and to deal with any transfer of staff, superannuation and other benefits.

Primary legislation would also have to include the reallocation of GLC functions. A review of all GLC functions would be required to determine if any of the functions should cease upon the abolition of the GLC, which should be transferred to the London Boroughs, and which should be transferred to the Secretary of State.

In addition to amending the London Government Act 1963, an extensive series of consequential amendments would be required in

many enactments which dealt with local authority functions, e.g., Fire Precautions Act 1971, for it would be necessary to redefine the new body responsible for the matters referred to in the context of the GLC.

If nearly all functions were transferred to London boroughs, then the amendment could be provided for by a general enactment amending 'all references' to the GLC to read 'a London Borough'.

The London Government Act 1963 itself amended the following Acts:

Representation of the People Act 1943, Local Government Act 1933, Road Traffic Act 1960, Road Traffic and Roads Improvement Act 1960, Road Traffic Act 1982, Highways Act 1959, Housing Act 1957, Public Health Acts 1936, 1875, 1925, Public Health (London) Act 1936, Public Health Acts Amendment Acts 1890, 1907, Theatres Act 1843, Diseases of Animals Act 1950, Food and Drugs Act 1955, Slaughter of Animals Act 1958, Land Drainage Acts 1961, 1930, Rating and Valuation Act 1925, Highways and Locomotives (Amendment) Act 1878, Civic Restaurants Act 1947, Telegraph Act 1892, Local Government Act 1888, Alkali & Works Regulations Act 1906, Canals Protection (London) Act 1898, Rag Flock and other Filling Materials Act 1951, Rivers (Prevention of Pollution) Act 1951, Local Government (Miscellaneous Provisions) Act 1953, Licensing Act 1953, Housing Repairs and Rents Act 1954, Nurses Agencies Act 1957, Town and Country Planning Acts, Caravan Sites and Control of Development Act 1960, Factories Act 1961, Consumer Protection Act 1961, Trustee Investments Act 1961, Transport Act 1962, Local Government (Records) Act 1962, and the Betting Gaming and Lotteries Act 1963. In addition around 200 repeals of certain enactments were effected. The repeal of the GLC would not have any legislative effect on a repealed provision, but the practical consequences would have to be considered.

In addition, a little over 350 local Acts were effected by the 1963 Act. Forty-six transitional provisions orders were made.

An objective assessment of the GLC's functions shows that most could be transferred to the boroughs, but those relating to London Transport and to Land Drainage (especially the Thames Barrage) could not be transferred to a single borough, although other proposals are possible. There also remains ILEA, where direct elections would require legislation to alter its status. This could, however, be dealt with as part of the bill to abolish the GLC and provision made for the revision of its functions.

In addition to legislation dealing with the transfer or abolition of functions, orders are required to deal with the transfer of the ownership of property.

APPENDIX C

LOCAL GOVERNMENT BILL

EXPLANATORY MEMORANDUM

This Bill applies requirements of the Local Government, Planning and Land Act 1980 to a range of local authority functions. Under the 1980 Act local authorities are under certain obligations in respect of their direct labour organizations in relation to the keeping of accounts and putting work out to competitive tender. The Bill applies similar obligations to a further range of functions of local authorities.

Clause 1 amends Part III of the Local Government, Planning and Land Act 1980 to apply to the specified functions. That part deals with local authority direct labour organizations. It controls the power of authorities to enter into agreements to carry out construction and maintenance work for other bodies, and regulates the way in which direct labour organizations carry out such work for their parent authorities; obliges them to invite tenders in certain circumstances; requires separate accounts to be kept for direct labour organizations, and certain conventions to be followed in their keeping; enables the Secretary of State to deprive authorities of the power to maintain direct labour organizations where a prescribed rate of return on capital has not been achieved; and requires authorities to publish reports on the construction and maintenance work which they undertake.

Clause 2 and the Schedule provide the necessary definitions, including that of "specified functions", with power for the Secretary of State by regulation to add to this list of specified functions.

LOCAL GOVERNMENT BILL

ARRANGEMENT OF CLAUSES

Clause

1. Amendments to Act of 1980
2. Interpretation
3. Supplementary
4. Short title and extent

Schedule - specified functions

LOCAL GOVERNMENT BILL

ARRANGEMENT OF CLAUSES

Clause

1. Amendments to Act of 1980
2. Interpretation
3. Supplementary
4. Short title and extent

Schedule - specified functions

LOCAL GOVERNMENT

A BILL
TO

Amend the law relating to the undertaking of works and the provision of services by local authorities; and for connected purposes.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:-

1. (1) Section 9 of the Act of 1980 is hereby amended by - Amendments
to Act of
1980
- (a) the insertion in subsection (1), after the word "appropriate", of the words "and a local authority may carry out such work of a specified function as they consider appropriate"
 - (b) the insertion in subsection (2), after the words "of any description" of the words "and a local authority may not undertake work of a specified function"
 - (c) the addition, after subsection (2) of the following subsection:-
 - (2A) In the case of work of a specified function where the local authority has been carrying on that function for the three immediately previous years, the amount inserted in the statement under subsection (2)(a) above shall not exceed an amount equal to one third of the total cost of that work for the three previous years, and the method inserted in the statement under subsection (2)(b) above shall be such as to ensure that a similar calculation is made
 - (d) the insertion in subsection (3)(a) after the words "may not undertake" of the words "and descriptions of work of a specified function which a local authority may not undertake"
 - (e) the addition at the end of subsection (3) of the following -
 - "and
 - (c) specify conditions with which a local authority must comply, as well as complying with subsection (2) above, before they undertake any other description of work of a specified function".
 - (f) the addition at the end of subsection (8) of the words "and where the local authority or development body prepared a written statement under subsection (2) above, the statement furnished in pursuance of this subsection shall include the written statement which they are

- required to prepare under subsection (2) above.
- (2) Section 10(1) of the Act of 1980 is hereby amended by the insertion, after the words "local authority who" of the words "carry out the work of any specified function or" and by the insertion, after the words "subsection (2) below" of the words "and in respect of each type of specified function".
- (3) Section 11 of the Act of 1980 is hereby amended by
- (a) the addition in subsection (1)(a) after the word "any" of the words "work of a specified function or any" and
 - (b) the addition in subsection (3) after the word "above" of the words "or for the purpose of any work of any particular specified function to which subsection (1) above applies"
- (4) Section 12 of the Act of 1980 is hereby amended by -
- (a) the insertion in subsection (1), after the words "functional work" of the words "or work of any specified function";
 - (b) the insertion in subsection (5)(c), after the words "undertaking any" of the words "work of any specified function or"; and
 - (c) the insertion in subsection (5)(d), after the words "in connection with" of the words "work of any specified function or".
- (5) Section 13 of the Act of 1980 is hereby amended by -
- (a) the insertion in subsection (1) after the words "or both" of the words "and every local authority who in any financial year undertake work of a specified function"
 - (b) the insertion in subsection (3) after the words "state of affairs" of the words "of the local authority, at the end of the financial year to which it relates, in respect of work of a specified function undertaken by them in that year.
 - (c) the addition after subsection (4) of the following subsection:-
 - "(4a) A revenue account must show a true and fair view of the financial result of the local authority having undertaken, in the financial year to which it relates, each description of work to which it relates of a specified function".
- (6) Section 16 of the Act of 1980 is hereby amended by the addition after subsection (1) of the following subsections:-
- "(1A) The Secretary of State may by order amend subsection (1) above by adding in that section a reference to any work of a statutory function in relation to a local authority.
 - (1B) The power to make an order conferred by subsection (1A) above shall be exercisable by statutory instrument.
 - (1C) A statutory instrument containing any such order shall be subject to annulment in pursuance of a resolution of either House of Parliament".

2. (1) In this Act - Interpretation
"the Act of 1980" means the Local Government, Planning and Land Act 1980;
"local authority" means a county council, the Greater London Council, a district council, a London borough council or the Common Council of the City of London and the Council of the Isles of Scilly;
- (2) In the Act of 1980 as amended by this Act "specified functions" means any functions conferred on a local authority under the enactments mentioned in Part I of the Schedule to this Act and includes the provision for the local authority of any of the services mentioned in Part II of the Schedule to this Act:
Provided that the Secretary of State may by regulation amend the Schedule to this Act by adding further specified functions.
3. (1) Any power to make regulations or give directions conferred by this Act includes power to make different provision in relation to local authorities in England and Wales. Supplementary
(2) Any power to make regulations conferred by this Act shall be exercisable by statutory instrument.
(3) This Act, except this section, shall come into operation on such day as the Secretary of State may by order made by statutory instrument appoint, different days may be so appointed for different provisions and for different purposes, and different provisions and purposes may be appointed in respect of different local authorities or groups of local authorities.
4. (1) This Act may be cited as the Local Government Act 1983 Short title
(2) This Act does not extend to Scotland or Northern Ireland and extent
Ireland.

SCHEDULE
SPECIFIED FUNCTIONS

PART I

Enactments referred to

Public Health Act 1875 section 164
Open Spaces Act 1906 section 9
Open Spaces Act 1906 section 10
Open Spaces Act 1906 section 14
Public Health Act 1936 section 72
Public Health Act 1936 section 73
Public Health Act 1936 section 74
Public Health Act 1936 section 120
Public Health Act 1936 section 121
Regulations made under section 49 of the Education Act 1944
Education Act 1944 section 55
Road Traffic Regulation Act 1967 section 55, insofar as it
authorises the maintenance of traffic signs
Local Government Act 1972 section 144(1)(b)
Control of Pollution Act 1974 section 12
Control of Pollution Act 1974 section 22
Local Government (Miscellaneous Provisions) Act 1976 section 19
Highways Act 1980 section 41
Highways Act 1980 section 97, insofar as it authorises the
maintenance of lamps, posts and other works
Highways Act 1980 section 150

PART II

Services referred to

Architectural, data processing, engineering, financial, legal,
office, planning, printing, public relations, security, surveying
and valuing services and the service of internal and external
cleaning of buildings of a local authority.

FURTHER EXPLANATION

Part III of the Local Government, Planning and Land Act 1980 controls certain functions of local authority direct labour organizations. The Bill adopts Part III to apply it with some modifications to other functions. It is therefore necessary to understand first what the 1980 Act provides. The main points are as follows:-

Subject to exception, a local authority may enter into a works contract in such circumstances and on such terms, having regard to their general financial duty, as they consider appropriate.

A "works contract" means a contract which is or comprises (a) an agreement, called a maintenance agreement (i) between the Greater London Council and other London authorities for maintenance work by one party in connection with land or buildings for the maintenance of which another party is responsible or (ii) between a local authority and any public body for maintenance work by the authority in connection with land or buildings of which the body is responsible or (b) an agreement between the Greater London Council and other London authorities with regard to metropolitan roads or (c) an agreement which otherwise provides for construction or maintenance work by a local authority.

However, a local authority may not (a) enter a works contract whose value exceeds the prescribed amount unless they do so as the result of acceptance of a tender or (b) enter into a works contract whose value is equal or less than the prescribed amount unless they have complied with prescribed conditions.

The prescribed conditions are (a) that the contract was made by acceptance of an offer by the authority to carry out the work in question; (b) that the authority made the offer in response to an invitation to submit such offers and (c) that the invitation was extended to at least three other persons.

Subject to exception, a local authority may undertake such functional work as it considers appropriate, having regard to its general financial duty. Such authorities must not undertake functional work of any description unless it has first prepared a written statement (a) of the amount it will credit to its DLO revenue account in respect of carrying out the work of that description which it intends or expects to carry out or (b) of a method by which it intends that the amount to be so credited will be calculated.

For this purpose, "functional work" is defined as construction or maintenance work undertaken by a local authority otherwise than under a works contract for the performance of, or in connection with (a) their functions of (b) their obligations under any arrangements, agreement or requirement made under any enactment providing for the discharge by them of any functions of

a Minister of the Crown, a water authority, a local authority or a regional, islands or district council.

Every local authority which undertakes construction or maintenance work under works contracts or by way of functional work must keep, in respect of certain descriptions of such work a revenue account (called a "DLO revenue account") and such other accounts as may be directed by the Secretary of State.

The descriptions of construction or maintenance work in respect of which such accounts must be kept are (a) general highway works and works in connection with the construction or maintenance of a sewer; (b) works of new construction, other than general highway works or works in connection with the construction of a sewer, the cost of which in the estimation of the authority will exceed £50,000; (c) works of new construction, other than general highway works or works in connection with the construction of a sewer, the cost of which in the estimation of the authority will not exceed £50,000 and (d) works of maintenance within the meaning of the Local Authorities (Goods and Services) Act 1970.

A local authority is not required to keep accounts in respect of specified construction or maintenance work for any financial year separate from accounts kept for that year in respect of any other description of construction or maintenance work, if the local authority did not at any one time in the previous financial year employ more than thirty persons who were engaged (wholly or partly) in carrying out that construction or maintenance work.

A local authority may not credit any DLO revenue account in respect of the cost of carrying out any functional work with a sum in excess of the appropriate amount.

Where a written statement has been prepared under s. 9(2)(a) the appropriate amount is the amount specified in that statement. Where a written statement has been prepared under s. 9(2)(b) it is an amount calculated in accordance with the method in that statement. Where the statement allowed for a variation in the appropriate amount in the event of changed circumstances, the account may be credited with such sum as the statement allowed for in those circumstances.

Every local authority which in any financial year undertakes construction or maintenance work, whether under works contracts or by way of functional work or both, must prepare specified documents not later than 30th September in the financial year following that year. The specified documents are (i) a balance sheet, (ii) a revenue account, and (iii) a statement of rate of return.

Every local authority which undertakes construction or maintenance work of a specified description under works contracts or by way of functional work or both, must secure that, in respect of each financial year, its revenue from such work shows such positive rate of return on the capital employed to carry on

the work as the Secretary of State may direct.

If at the end of any financial year a local authority DLO revenue account is in deficit, the amount of the deficit must be charged (a) in the first instance, to any DLO reserve fund established by it and (b) to its rate fund.

If in respect of any financial year the rate of return shown on the capital employed by a local authority for carrying out construction or maintenance work of a specified description is less than the rate of return for the time being required, the authority must notify the Secretary of State of that fact not later than the expiration of six months from the end of that financial year.

If a local authority is under a duty to notify the Secretary of State in respect of the same description of construction or maintenance work in each of three consecutive financial years, it must prepare a report in respect of that description of work.

The Secretary of State has power at any time, if he thinks fit, to direct a local authority to make and submit to him, within such a time as he may specify, a special report on (a) all the construction or maintenance work undertaken by it during the three years preceding the date of the direction or (b) work of a specified description which it has undertaken during that period.

Every local authority which in any financial year undertakes construction or maintenance work, whether under works contracts or by way of functional work or both, must prepare a report on such work undertaken during the financial year.

A report must be prepared not later than 30th September in the financial year following that to which it relates and must include such information as the Secretary of State may direct relating to construction or maintenance work of a specified description. Any person may inspect a report and must be supplied with a copy on payment of such charge as the authority or body reasonably requires.

The provisions of the Local Government, Planning and Land Act of 1980, Part III do not apply to a local authority in any year if it did not in the previous year at any one time employ more than thirty persons who were engaged (whether wholly or partly) in carrying out construction or maintenance work.

Turning to the Bill, the main alterations which it makes to the 1980 Act are to insert a wide range of specified functions additional to the limited range in Part III of the 1980 Act. These functions are those referred to in the schedule.

In the case of the added functions the local authority is not required or allowed to tender but if it wishes to carry out the work it must propose a price not greater than the average cost of the function for the previous three years if it has been carrying

out that function for such a period.

The Secretary of State may add functions to the list set out in the schedule and this is to be done by an Order subject to annulling resolution.

The Secretary of State will add these functions by various commencement Orders and having done so he may make regulations taking any of the functions into the requirement for tendering.

A further alteration to the 1980 Act procedure relates to the publication of tender figures. Under the 1980 Act (section 9(8)) the local authority must if required by any body supply him with a written statement showing who is to undertake the work and its estimated cost. The statement must also show the price of unsuccessful tenders, although not the unsuccessful tenderers. Under the Bill, if the local authority put in a bid that must also be included in the publicised statement, including the fact that it was the local authority who made that bid.