Local Government Act 1988 (Competition in Sports and Leisure Facilities) Order 1989

HL Deb 21 December 1989 vol 514 cc362-9

12.18 p.m.

Lord Reay rose to move, That the draft order laid before the House on 25th October be approved [29th Report from the Joint Committee, Session 1988–89].

The noble Lord said: My Lords, on behalf of my noble friend Lord Hesketh I beg to move the order standing in his name on the Order Paper.

The order seeks to extend the range of activities which must be put out to tender by local authorities under the Local Government Act 1988 by including the management of facilities for sport and leisure. The order adds a new defined activity of "managing sports and leisure facilities" to Section 2(2) of the Local Government Act 1988. It also adds a new paragraph 8 to Schedule 1 of the Act which sets out a definition of the activity.

As your Lordships know, local authorities are the major providers of sports facilities in this country. They have in their ownership over 1,000 swimming pools, a similar number of sports halls, and in addition ice rinks, athletic tracks, tennis courts and facilities for many other sports. In 1987–88 local authorities spent over £800 million on sport and recreation, much of it financed by the rate support grant. The Government place the highest value on the sport and leisure facilities which local authorities provide.

I should emphasise that this order does not require local authorities to privatise their sports and leisure facilities. What it does is to require local authorities to submit the management of their facilities to competitive tender. We are not seeking new ownership but better management. The point of competitive tendering is threefold: fuller use of the facilities, a better delivery of the service which they provide and increased value for money. The users of the facilities will benefit from more cost-effective management; so will the ratepayers.

A few moments ago I referred to the numbers and range of facilities provided by local authorities. Regrettably, it is sometimes the case that the facilities which have been provided do not match the needs of the local population. As a result, some facilities may be only half full while others cannot meet local demand. Some managers may not be aware of exactly what it is that their customers want. What is needed is a better understanding of the requirements of the users and a more professional approach to marketing. This is where competitive tendering has an important part to play because a competitive environment provides a powerful incentive to managers to get things right.

I give noble Lords a good example of a facility where we think the planning and marketing is right; that is, the Queen Mother Sports Centre in Westminster. This is one of five leisure centres formerly operated by Westminster City Council and now run by a private contractor, City Centre Leisure. Last year 172,000 people used the swimming pool at the centre. This year that figure has increased to 216,000. Much of the increase is due to the longer opening hours. The centre also provides a wider range of opportunities for people to participate in a variety of activities. In the years when the centre was run by Westminster Council, entrance prices were rising by more than 10 per cent. a year. Under the new management entrance prices have risen by only 6.5 per cent. and users have benefited from new and improved facilities.

There is no doubt that there is scope for improving value for money in the public sector. The Audit Commission estimates that savings from voluntary contracting out may be in the region of 20 per cent. or more of previous costs. The Government believe that major savings are available but we do not want to see these savings achieved at the expense of those people who could not participate in sport without some form of subsidy. That is why we have said that pricing and admissions policy will remain in the control of the local authorities. We recognise that this control is essential if everyone is to be given the opportunity to take part in sport.

Before I move on to outline the main elements of the order, I should like to stress again that despite rumours put about by the Opposition, we are not proposing to privatise local authority sports and leisure facilities. Local authorities will not be required to sell off their facilities, nor will they be forced to run them at a profit. Authorities will retain control of their pricing and admission policies. They can insist upon access for disadvantaged groups, for elite competitors and for others. Authorities are responsible for drawing up the contract documentation, which means that as long as they do not act in a way which could be regarded as anti-competitive or which goes against the meaning of the order, they can decide the extent to which they wish to devolve responsibility to the contractors. And those contractors could just as easily be an in-house team as from the private sector. There is nothing to stop the in-house team winning the contract if it produces the most competitive bid.

This order has been the subject of two rounds of consultation. The first was in 1987 when the Government originally set out their proposals to extend competition to the management of sport and leisure. The second period of consultation was in late 1988 when the first draft of the order was circulated. Ministers at the Department of the Environment and in the Welsh and Scottish Offices have given careful consideration to the 74 responses which we received.

I will briefly explain the contents of the order. The first section lists the facilities where management is to be opened to competitive tendering. The second section exempts facilities provided on premises not predominantly used for sport or physical recreation from competititve tendering and also facilities provided on premises occupied by educational institutions. The order defines the circumstances in which facilities where there is dual use —that is, use by both educational institutions and the community —are also exempted. These conditions are, first, that the facility must be provided under Section 53 of the Education Act 1944 and, secondly, that the facility must be used exclusively by educational institutions for more than 600 hours in the immediately preceding financial year.

The last part of the order defines the acts which are included in the management function. In response to comments from consultees this section has been amended to allow the new management team to bring in outside expertise to help with the coaching or training of certain sports if it so wishes. The implementation timetable is not specified in the order before us today, but will be the subject of another order to be laid before Parliament early next year. Subject to parliamentary approval we propose to phase in implementation on a percentage basis. Thus all authorities in England and Scotland will be required to have exposed to competitive tendering facilities representing 35 per cent. of their gross expenditure in sport and leisure by 1st January 1992, 70 per cent. by 1st August 1992 and 100 per cent. by 1st January 1993. In Wales, competition will be phased in over a two-year period.

It must of course be for local authorities to interpret the order, but my department, the Department of the Environment, will prepare for publication during the early part of next year a circular giving advice on a number of issues. When preparing that circular the department officials will take into account the questions that have been raised by authorities on points of detail and will, where appropriate, offer guidance.

The purpose of this order is to ensure that local authorities improve the management of their sport and leisure facilities. We want to see such facilities run economically and at the same time providing an improved service to their customers. We hope that everyone will benefit —the managers themselves, the sportsmen and women who use the facilities and the ratepayers. I conimepd the order to the House.

Moved, That the draft order laid before the House on 25th October be approved [29th Report from the Joint Committee, Session 1988–89]. —(Lord Reay.)

Lord Graham of Edmonton My Lords, the House is grateful to the Minister for the very clear way in which he outlined the purpose of the order. I certainly have no quarrel either with this Minister or with the manner in which the order has been presented to the House. However, earlier this morning we had yet another example of dogma gone mad when we debated the Statement on student loans. Despite advice from friends of this Government —and I am prepared to believe the rumour that they still have some left —they failed to listen in regard to student loans. The Government have repeated that dreadful mistake of not listening to their friends in respect of this compulsory tendering issue.

I appreciate that this Minister was not involved in the earlier discussions, as I was, on previous local government Bills, but this aspect of compulsory tendering does not have a friend in the world of local government. The Minister should be invited —as I invite him now —to tell us the bodies of major import in local government or elsewhere who favour the proposals in this Bill. Of course there are outside contractors—people who can see and smell a gravy-boat a mile off—who may well get something from it.

The Minister spoke of wanting to obtain the highest value from public money. This is a very good illustration of the maxim that the Government understand the cost of everything but the value of nothing. I honestly believe that as this is pushed through, promulgated and put into effect by reluctant councils and councillors, there will be horror on the faces of thousands and thousands of people who cannot believe that a government could be as stupid as this Government will be shown to be by pressing this forward.

I should like the Minister to deal with a number of questions. He tells us that he is not putting forward this order as a privatisation measure. His words can mean whatever anyone wants them to mean. The Minister is in effect saying that this is a measure to put out the management of the facilities to tender. Everybody knows that ultimately this Government believe there is nothing that the private sector cannot manage and control better than the public sector. It is no good saying to the hundreds of thousands of parents and children who currently enjoy the facilities of playing fields or swimming pools that those facilities may not eventually be sold off. The Government are not standing at the Dispatch Box saying "Never, ever". Will that be the next step we will face?

I am deeply disturbed, angry and more than in despair that the Government persist. I honestly ask the Minister to explain why the Government persist in dealing with this minuscule aspect of local authority affairs instead of the enormity of the burdens and problems which face the Government? He tells us that it is possible for an in-house team to win a tender. The Minister knows that in every aspect of compulsory tendering more than 80 per cent. of tenders have been won by an in-house team —whether it be for refuse collection or school dinners —but at what price?

The trade unions, the workers and the councillors have had to twist and turn to produce winning tenders. It has not only meant exta work —and no one can quibble at that —but corners had to be cut and sails trimmed. At the end of the day the service continues. In Enfield there has been trimming and twisting, for instance, in refuse collection. My dustmen, whenever I speak to them, whenever I can gauge their thoughts, are very angry at the way in which, while they continue to do their job, enormous pressures are put upon them.

The Minister may naively believe that very little will be changed other than what the Minister wants; namely, better value for money. He mentioned Westminster but failed to mention other essays into the subject matter we are talking about. In his reply, will the Minister tell us about the experience of Torbay? The council put out private tenders for ground maintenance but within 10 days the scheme had to be abandoned because of the standards. Would he care to tell us about the experience of Chelmsford and its swimming pool where, after three months, the invitation to tender collapsed?

We are not speaking of a matter that can be shrugged off, but of a service to people who may be absolutely dependent upon it. I looked at the record of a debate in the other place. As usual, Mr. Nicholas Winterton, the Member of Parliament for Macclesfield, spoke very good sense. He told the House conservative-controlled authorities like his would resent very much having imposed on them the measures contained in this order.

I have been a councillor for many years. Councillors resent very deeply the intention of the Government to interfere yet again in these kinds of matters. I am grateful for what the Minister said; namely that next year, in the light of the comments made, there will be further guidance.

I wonder whether the Minister will deal with this kind of situation. From his reading of the papers he will understand the question of dual user and the complexity of the interests using the facilities which are the purpose of the order. I have had access to a number of documents. I have before me a very interesting article written by Mr. Alex Millar, who is the national vice-chairman of the Institute of Groundsmen and of the institute's structure subcommittee. In that recent article he said: "One of the most obvious pitfalls of the new arrangements is that if contracts are not kept in house, they may be won by untrained, unknowledgeable and unskilled contractors, particularly in the area of

sportsground maintenance"." Other than a local authority ensuring that the people who get the tender appear to have the necessary qualifications, what interest or oversight are the Government and the ministry going to take to ensure that tenders are given to properly trained people? The country needs to know something about that.

I now turn to the question of the range of interests. In the same very good article, Mr. Millar said: "A major concern under the new regime is that minority sports, such as archery, may lose out. Such activities do not generate sufficient income for facilities managers which is why, as I said in my 1987 IoG Sportsground Environment address, local authorities should be allowed to retain their power to decide the level of charges for facilities"." The Minister has said that the level of charges will be a matter for the local authority. Can the Minister say how we shall bridge the gap between the level of charges which an authority feels is appropriate or reasonable and what the contractor says needs to be charged in order to make the project profitable? Are we speaking about community needs or profit?

I have before me the annual report of the Sports Council. At page 17 the council state: "The Council gives considerable priority to assisting sport improve its management and marketing skills and expand its use of new technology. The field of recreation management has latterly been dominated by one issue: Compulsory Competitive Tendering (CCT). This has posed a major challenge to local authorities. The Council has been consulting widely on the implications of the recent legislation and has issued advice highlighting the need for local authorities to preserve the concept of Sport for All"." I ask the Minister a direct question: when the dust dies down do the Minister and his colleagues care that there are fewer facilities available and a less wide range of opportunities for local people to enjoy the amenities that they once had? Will the Minister and his colleagues then be happy that by some magic formula the local ratepayer is paying less? In other words, where is the heart of the Minister and the Government in these matters? There are dreadful consequences facing the Government if they persist.

When we talk about swimming, we are not speaking solely of a sports activity, but of saving lives. I take an interest in judo. There are two bodies passionately involved in that minority sport; one is the British Judo Association, and the other is the British Judo Council. One body is officially recognised by the Sports Council; the other is not. The complaint of the organisation that is not recognised is that, through recognition by the Sports Council, one of the organisations is able to enjoy better facilities provided by local authorities. Can the Minister tell us whether the Government care or are concerned that people who enjoy judo or archery, and many other minority sports, shall still be able to enjoy them?

I have left the Minister with one or two questions. In general the Minister may very well achieve his objective of injecting more sharpness into the management of public facilities. That could have been done without the enormous paraphernalia which he and his colleagues have dreamed up. It is a waste of public money and time. I very much hope that the Minister has some answers to the questions that I have asked.

Lord Reay My Lords, I thank the noble Lord opposite for his gracious personal opening remark when he said that he had no objection to me. I can assure the noble Lord that I have no objection to him. He asked me a number of questions which I shall do my best to answer. He claimed that this measure was wanted by no one. That is not true. Many authorities are already seeing the benefits of competitive tendering in other areas: we believe that more will come to see the advantages.

Lord Graham of Edmonton My Lords, can the noble Lord tell the House the names of 12 of them?

Lord Reay My Lords, I have no specific figures. I do not wish to go into specific cases. I am quite sure that as this measure becomes better understood it will gather a greater level of support behind it. People will realise the possibilities of improving what is offered not only to the ratepayer but also to the customer. The noble Lord made reference to the fact that 80 per cent. of the contracts had been won in house. We are not worried if work remains in house provided that the competition has been fair and that the direct service organisation tender represents the best value for money.

The noble Lord made a more general point when he contradicted my claim that this was not privatisation; he insisted that it was. He said that that was the only way in which the Government looked at the matter. I refer the noble Lord to paragraph 47 in the Audit Commission report Sport for Whom?: "Although sometimes described as privatisation CCT

is nothing of the sort. Section 19 of the Local Government (Miscellaneous Provisions) Act 1976 remains in force. Authorities will still be able to control prices and programming and will decide policy matters such as who is to receive subsidies and what activities facilities are to be used for. They will be able to set quality standards, default point systems and ultimately early termination can be used if a contractor fails to meet his obligations"." Those are the words of the Audit Commission, not of the Government.

The noble Lord asked about Torbay and Chelmsford. I do not have details of those two cases. If I may, I shall look into the matter and write to him. The Audit Commission estimated that contracting out on a voluntary basis produced savings of up to 20 per cent. on previous costs. We believe that no local authority should resist an opportunity of that kind.

The noble Lord asked about staff training. Section 17(5) of the Local Government Act 1988 states that local authorities shall not make reference to non-commercial matters such as staff training in their dealings with contractors, but there is nothing in the legislation to prevent local authorities requiring that contractors' staff should be properly qualified to carry out the work specified in the tender documents.

The noble Lord asked also about minority sports. It is up to the local authority to write into the contract suitable terms for the minority sports that it would like to see provided.

Lord Graham of Edmonton My Lords, I assure the noble Lord that this will be my last intervention. A local authority, in the light of its knowledge of the needs of the area, will produce a brief which the contractors will say makes their job of making a profit impossible. They are concerned only with making a profit. That will put pressure on the local authority to trim its brief and, perhaps under pressure from the potential contractors, eliminate from the brief sports that should be encouraged. It is no use the Minister saying that it is entirely up to local government to decide which sports should be carried on and to decide on the level of charges and exemptions if at the same time the Government say that local government must get rid of management responsibility and put it out to tender. Does the noble Lord not understand that it is neither flesh of one nor fowl of the other? It is a dog's breakfast.

Lord Reay My Lords, I do not agree with the noble Lord. I should like to quote again from the Audit Commission report. The noble Lord speaks as though there is no problem and appears to suggest that the position cannot be improved. That is not the view of the Audit Commission. Paragraph 9 of the report says: "Many authorities do not have a clear idea of what their role in sport and recreation should be and have not reconciled their social and financial objectives. The problems relate principally to objectives —provision, price setting and subsidy and performance monitoring. Poor marketing lies at the heart of their problems. A poor understanding of local needs and how they are changing, who does and does not participate in sport and use facilities, why this is so, who the authority is trying to help and how they should be reached and what charges they can afford"." It goes on to say that these are management deficiencies.

That is the position which the order seeks to improve. The order is intended to be in the interests not just of the ratepayers, as the noble Lord alleges, but principally of the customers.

On Question, Motion agreed to.