

BOUNDARY COMMISSION FOR ENGLAND

Minutes of the meeting held in the 2nd floor meeting room, Cabinet Office, 35 Great Smith Street, London, SW1P 3BQ on Monday 20 December 2010 at 4.45pm

Present:-

The Hon. Mr Justice Sales	Deputy Chairman
Mr D Elvin QC	Commissioner
Mr S D James	Secretary (Cabinet Office)
Mr R W Farrance	“
Dr A Kikugawa	“
Ms C Batterbee	“
Mr G Reed	“
Mr G R Tessier	“

The presence of the Assessors from Ordnance Survey and the Statistics Authority was not required at the meeting.

Apologies were received from Mr Pringle, who was unable to attend the meeting due to the adverse weather conditions, and Mr Bellringer, Deputy Secretary, who was on leave.

1. MINUTES OF THE MEETING HELD ON 19 OCTOBER 2010

- 1.1 The minutes of the previous meeting were approved by the Commission without amendment and signed by the Deputy Chairman.

2. MATTERS ARISING SINCE 19 OCTOBER (BCE/2010/Paper 27)

Secretariat staffing

- 2.1 The Deputy Chairman welcomed Dr Angela Kikugawa (Programme Management Office Manager) and Ms Colette Batterbee (Communications Officer) who both joined the Secretariat on 7 December 2010.

Parliamentary Voting System and Constituencies Bill (PVS&C Bill)

- 2.2 Immediately following the last meeting, the Secretary sent a note to Marc Rooney of the Elections and Democracy Division (EDD) of the Cabinet Office (CO) on the matters that Members had asked should be brought to the attention of officials working on the Bill. Members noted that the Bill is now currently before the House of Lords for consideration. Because of the nature of the debate surrounding the Bill in the Lords, EDD had not been able to provide a formal response to the Secretary's communication, other than to confirm that they have noted the points raised, including matters which in particular relate to potential changes that could be made during the Bill's passage.

- 2.3 Members had previously considered it would be advantageous if the Commission could be provided with the ability to conduct public consultation on substantive issues relating to methodology (e.g. the use of the regions – and paired counties within that - as a template to allocate constituencies, the continued use of wards as building blocks, etc) - prior to moving to publication of the provisional recommendations - without triggering a 12 week period of consultation. The effect of this would not be dissimilar to amendment No.240 laid by Graham Allen MP, but with a shorter period (4 weeks). Or, it could be achieved by expressly stipulating that the Commission could communicate its general intentions without triggering the 12 week consultation period. Members noted the draft of a possible amendment which could be tabled to address this aspect. They considered that, although the amendment went some way to clarify that an early publication of the way in which the review would proceed would not be regarded as a provisional determination, it was ambiguous and did not provide the level and type of assurance that they wanted. They asked the Secretary to ascertain from EDD whether there was any opportunity to influence the drafting at this stage. [It was confirmed after the meeting that it was still possible to comment on the drafting of the amendment].
- 2.4 The other issues Members had wished to be brought to the attention of the officials drafting the Bill were:-
- a) If it was considered desirable that there should be an opportunity for those taking part in the review to submit comments on the representations made in respect of the provisional recommendations, it would be advantageous for the Bill to be amended to ensure that firstly, the extra consultation period had statutory backing and that secondly, sufficient time was provided for completion of this extra stage by extending the deadline for submission of the final report;
 - b) the ability to publish revised recommendations, after consideration of the representations made in respect of the provisional recommendations, provided a very useful final public stage to the review process and Members would not wish to see it dropped in order to accommodate the extra consultation stage;
 - c) it was considered that it would not be necessary to appoint more Members; and
 - d) it was considered that it would be necessary to appoint a panel of Assistant Commissioners (ACs) to consider the written representations received in respect of the provisional recommendations (and, potentially, the comments submitted in respect of those representations) as this “independent” assessment would provide greater robustness and hence public confidence in the revised recommendations and the overall review process.

Circular to Electoral Registration Officers (EROs)

- 2.5 Members noted that EDD had issued a circular to EROs asking for their help in ensuring the timely provision of the electoral registers to the Commission. It also

explained the provisions of the PVS&C Bill would require the Commission to base its recommendations for the next review on the electoral registers due for statutory publication on 1 December 2010; and it clarified the position with regard to 16 year olds on the register. The Circular was issued on 13 December, some twelve days after the electoral registers were required to be published.

- 2.6 The Secretariat wrote to all EROs on 19 November 2010 to remind them of the statutory provision that a copy of every register should be sent to the Commission by 23 December 2010. It also requested that if the Council was not planning to publish its electoral register on 1 December 2010 (by virtue of a local election being conducted in its area during the registration canvass period), it should notify the Secretariat and confirm on what date it would be published.

Meeting of the Local Government and Parliamentary Boundary Commissions

- 2.7 The meeting took place in Edinburgh over 3 and 4 November 2010. The Commission was represented by Mr Pringle, Mr James and Mr Farrance.

- 2.8 Mr Farrance reported that the meeting was well attended and that after short opening reports from each Commission about the work they had been undertaking since the last meeting in London (1 April 2009) and their immediate plans, the meeting divided into separate groups. The agenda for the Parliamentary group included the following items:-

- the PVS&C Bill: a discussion with officials from EDD of the CO.
- specific issues relating to the sixth general reviews: a discussion about:-
 - a) the significant change required,
 - b) the grouping of local areas,
 - c) building blocks for constituencies,
 - d) public consultation, and
 - e) other issues.
- questions from those present to the Secretaries on a range of issues connected with the sixth general reviews.
- problems associated with applying the 5% electoral parity target in Northern Ireland.

- 2.9 There was a discussion about future co-operation between the four Commissions and the need for further meetings: the next to be held (which was confirmed after the meeting) would be in Cardiff on 21 March 2011. The Commissions also discussed the different procedures that might be adopted in England due to the size of the task and that, where this was likely, the BCE would justify a different approach to the other Commissions. The main difference was likely to be in the publishing of representations. The Secretary also confirmed that the four Commissions were working closely on communication strategies.

Website

- 2.10 The Commission's website is currently hosted on the Ministry of Justice's (MoJ) IT platform. It has its own Uniform Resource Locator (URL) and as such, a visitor would not be aware of the link with the MoJ and would only see the Commission's website pages and its "branding". The hosting arrangement has worked well and was only arrived at after many months of negotiation when the Secretariat transferred from the Office for National Statistics (ONS) to MoJ.
- 2.11 At early move transition meetings that were held between MoJ, CO and the Secretariat, it had been understood that this arrangement would be continued by the CO and that the Commission's website would retain its URL, style and its own independent pages. However, the Secretariat had recently learnt that the Minister for the CO, the Rt Hon Francis Maude MP, had announced a full review of all Government websites with the aim of rationalisation and the consequent reduction of many Government websites. Against this wider context, Mr Maude has not yet given specific authority for the Commission to retain a separate website to be hosted on the CO's IT platform.
- 2.12 In the short term, the Secretariat has reached an arrangement with MoJ that the Commission's website will continue to be hosted on the MoJ platform and that the MoJ web team will update the site and place announcements on the site on behalf of the Secretariat, as this facility is no longer available to the Secretariat now it has transferred into the CO. However, this arrangement can last only until 31 March 2011, when the MoJ will close down the Commission's website. The Secretariat will work urgently with MoJ and CO early in January 2011 to find an acceptable long-term solution which properly recognises the Commission's independence and its relationship with central Government, and will keep Members updated on progress.
- 2.13 The Deputy Chairman considered that it was vital that a fully operational, independent website was quickly established as it would be the primary medium for informing and communicating with the public before and throughout the sixth General Review.

Staffing

- 2.14 Members noted that the following positions have been filled following recruitment by the Secretariat:-
- PMO Manager: Angela Kikugawa, (starting date 7 December 2010);
 - Review Co-ordinator, managing two Review Teams: Sam Hartley (starting date 17 January 2011). Mr Hartley would be on secondment from the Local Government Boundary Commission for England (LGBCE);
 - Communications Manager: Colette Batterbee, (starting date 7 December 2010);
 - Support Team Manager: **Hemant Acharya**, (starting date 4 January 2011);
- 2.15 Other posts, including those of the more junior staff had been filled following a recruitment exercise and it was expected that all additional staff would be in post by February 2011.

Geographic Information System (GIS)

- 2.16 ESRI(UK) successfully loaded Boundary Line 2010 into the GIS on 4/5 November 2010. This enabled the scheme for England, that was considered by Mr Elvin and Mr Pringle between 8 and 17 November 2010, to be wholly based on the local government boundaries as they existed on 6 May 2010: as provided for by the PVS&C Bill. ESRI(UK) also made two changes to the functionality of the GIS. The first enables the size of each constituency to be output in square kilometres at the time it is provisionally recommended. This functionality was tested and proved successful. A measurement facility was created when the GIS software was first designed but it was removed following the fourth general review as it had never been used: it also measured constituencies in hectares.
- 2.17 The second change enables the Secretariat to output a full set of constituency boundaries as shape files at the provisional, revised and final recommendations stage. This functionality was tested and proved successful. The GIS previously had the facility only to output a set of boundaries once the final recommendations had been agreed and the review had, effectively, been completed. It was considered necessary to adjust the software so that a set of boundaries could be sent to Ordnance Survey at the two earlier stages (provisional and revised recommendations) to facilitate the production of the paper mapping that will support the review.
- 2.18 The relocation of the GIS by ESRI(UK) to the CO server had been a success, although new client PCs on which to run the application were still awaited.

Places of deposit

- 2.19 Members noted that the Secretariat first wrote to Chief Executives on 6 August 2010 to request confirmation of the places of deposit that could be used in their local authority area. Due to the very poor response rate, a reminder letter was necessary for 190 authorities (58%): this was sent on 9 September 2010. Follow-up telephone calls were then made from 4 October 2010 to the 23 authorities that had, by that stage, not responded. The Secretariat finally acquired the information for every local authority in England when Wiltshire submitted its response on 18 November 2010. The five authorities who had not responded by the last meeting (19 October 2010) supplied the information requested by 15 November 2010.

Secretary to the Commission

- 2.20 Mr James has been appointed as Secretary to the Commission with effect from 15 December 2010. The appointment was made by the Rt Hon Nick Clegg MP, Deputy Prime Minister. The appointment has been made until 31 December 2014.

Accommodation

- 2.21 The Secretariat moved into its new accommodation - 35 Great Smith Street, London, SW1P 3BQ - over the weekend of 4 and 5 December 2010. Although there had been

some teething problems with the new IT platform on the first day in the CO, the physical move and IT transfer in general have been a success despite an aggressive timescale: the time lapse between initial conversations with CO IT and the actual move was a mere 12 weeks. “Wash-up” meetings with the appropriate personnel had been held to identify the areas that could have been better handled and lessons had been learnt.

- 2.22 All members of the Secretariat now have the same format for their email addresses, which is similar to that for previous email addresses, with the exception of an “x” after “bcommengland”. New team members will also have the same address format upon joining the team.
- 2.23 Members considered the success of the move represents a significant achievement for the Secretariat, with close involvement from CO, MoJ and ESRI(UK).

3. THE PARLIAMENTARY VOTING SYSTEM AND CONSTITUENCIES BILL (BCE/2010/Paper 28)

Progress through the House of Commons

- 3.1 Members noted that the PVS&C Bill (‘the Bill’) was formally introduced in the House of Commons on 22 July, and had its Second Reading debate on 6 September. The Commons Committee stages took place 12-25 October, with the key relevant debates on the constituency review clauses taking place on 19 and 20 October. Report stage began on 1 November, and concluded on 2 November, when Third Reading was also concluded. A total of six amendments were made to the Bill during its passage through the Commons, all of which were put down by the Government itself. These were:-

- Clarifying the definition of local government boundaries to which the Boundary Commission for England may have regard, so as to cover counties with a county council, district councils without a county council (unitary authorities), and London Boroughs. This met a technical concern of the Secretariat itself;
- clarifying that references to the Secretary of State in relation to receiving and laying the final report, and the associated Order in Council, could include the Lord President of the Council (Deputy Prime Minister);
- clarifying that the electoral register to be used by the Boundary Commissions to conduct the forthcoming review is that required by statute to be published on 1 December 2010, even if that publication is (validly) postponed until 1 February 2011;
- consequential amendments to other legislation that names specific constituencies, to seek to ‘future-proof’ them against potential future changes of name to those constituencies;
- a drafting change to properly cross-reference within the Bill; and
- a requirement that a draft Order in Council may only seek to modify the recommendations contained within a Boundary Commission report if that

modification has been requested – with reasons – by the relevant Boundary Commission itself. Though technically a Government amendment, the genesis of this was a recommendation of the Political and Constitutional Reform Select Committee of the House of Commons.

Progress through the House of Lords

- 3.2 The Bill was taken from the Commons to the Lords on 3 November. Immediately prior to the Second Reading debate which commenced on 15 November, a motion to refer the Bill to ‘Examiners’ was debated. This motion was based on the view that the Bill could be a ‘hybrid’ (i.e. engaging both public and private interests, and therefore subject to a different Parliamentary process than a purely Public Bill). It was contended that it should be referred to Examiners to make a decision on this point before its Parliamentary progress should be allowed to continue (although the Clerk of Public and Private Bills in the House of Lords had confirmed that it was prima facie not a hybrid Bill). The effect of the motion, if successful, would potentially have been some significant delay to the progress of the Bill. The motion was very narrowly defeated, following which the Second Reading Debate was commenced later that day and concluded on 16 November.
- 3.3 Committee stage in the Lords commenced on 30 November. Members noted that the Government suffered a recent defeat during the Committee stage consideration of Part 1 of the Bill. Whilst the issue at stake – relating to the timing of the proposed referendum on the AV system – has no immediate significant impact on the Commission’s work, this could be taken as an indication both of the mood of the House in relation to the Bill as a whole and of the prospects for the Government avoiding further defeats during the Bill’s passage through the Lords.

Future stages of Bill

- 3.4 It is likely that the Report and Third Reading stages in the Lords will take place soon after the House returns from Christmas recess on 10 January. If any amendments have been made by the Lords (even if only in Parts not related to constituency reviews), the Bill will return to the Commons for consideration of those amendments. There is then the possibility of ‘ping-pong’, where the Bill bounces back and forth between the Houses if they cannot agree on a particular point. However, as soon as one House agrees any outstanding amendments by the other House, the Bill can then go for Royal Assent.
- 3.5 It is almost certain that there will be a Government amendment that will replace the twelve week consultation process with an eight week consultation process following which the representations will be published, and there will then be a further consultation process of four weeks on these representations (the “eight plus four times two” amendment). This would apply to both provisional and revised recommendations. No change to the end date was being proposed (the report is required to be submitted before 1 October 2013) and the introduction of these additional stages might have resource implications.
- 3.6 The Secretary also told Members that Royal Assent was not now expected to be received until mid February 2011.

4. THE DRAFT INFORMATION BOOKLET (BCE/2010/Paper 29)

Purpose and history of the Booklet

- 4.1 A Booklet has proven to be a useful format in which to make available to those interested in detailed information about the Commission and the work it does. A Booklet was first produced to accompany the start of the Third General Review in 1976, and a new Booklet was produced for the start of both the Fourth and Fifth General Reviews in 1991 and 2000 respectively.
- 4.2 Members considered that the Booklet is regarded as a valuable tool for providing to interested parties the information they need to understand the review process. An electronic copy of the Booklet will be available to view and download on the BCE's website. As there are still many who do not have – or are not equipped to use – internet access, a hard copy Booklet will allow the BCE to reach those individuals as well. Hard copies will therefore be included in every package of provisional recommendations sent to the places of deposit, and a copy is sent to every MP, every principal area local authority (county, district, and unitary), the headquarters of each political party represented in the House of Commons, and to the House of Commons library. However, Members were clear that for the forthcoming review, there must be very considerable emphasis on using the Commission's website to communicate with stakeholders and the public at large.

Matters of general policy

- 4.3 Members had already determined two key questions: that a new booklet should be produced for the next General Review, and that it should be published between: a) the proposed meeting of Members with the representatives of the Parliamentary political parties (allowing any policy changes flowing from that meeting to be incorporated); and b) the publication of the provisional recommendations. In considering the Commission's approach to further policy matters relating to the Booklet, Members considered that some matters of detail relating to the Booklet should properly be determined only after consideration of a wider communication strategy for the Commission (see below).
- 4.4 Members confirmed the same distribution arrangements for the Booklet as in previous reviews and that, as at the Fourth and Fifth General Reviews, in addition to an electronic copy, a hard copy of the Booklet should also be made available on request and free of charge, although the primary aim should be to steer the public to the website. The budget for the review period currently includes provision for printing a stock of Booklets to be held for such reactive 'distribution on demand'.

Structure and content of Booklet

- 4.5. Members considered a number of suggestions about the content and layout of the Booklet and asked the Secretariat to incorporate their views and decisions in its drafting. In particular it was very important that the Booklet (and all other documents)

should be very clear that the sixth General Review would be very different from previous reviews and that the requirement to reduce the number of constituencies and to create constituencies with electorates that were within 5% of each other, in accordance with the legislation, would severely limit the Commission's flexibility and discretion. Members did not want the Booklet and other documents to dwell on past practice or to highlight the history of previous reviews: the documentation must focus very much on how this review would be conducted. It was considered that the documentation should also acknowledge that, even if an existing constituency had an electorate that was very close to the electoral quota (EQ), it was quite possible that such a constituency might be substantially altered to accommodate the creation of constituencies within the 5% tolerance elsewhere. The effective management of expectations would therefore be paramount.

- 4.6 In light of the decisions taken by Members on the structure and content the Secretariat will work on drafting the substantive text, and a first draft will be available for comment at the next meeting.

Relationship of the Booklet to other Commission communications

- 4.7 In consideration of the text of future News Releases and Press Notices, Members considered the extent to which it may be desirable, or otherwise, to duplicate information in those documents that appears in the Booklet. As a general approach it was agreed that until such time as the Booklet is published, News Releases and Press Notices should contain reasonably full and detailed 'Notes for Editors' and background information, but the amount of such material might be reduced thereafter, to be replaced by appropriate cross-referencing to the relevant sections of the Booklet.
- 4.8 More broadly, Members decided that consideration will need to be given to how the Booklet sits within the context of the Commission's wider communication with its stakeholders. Following the appointment of the Secretariat's Communications Manager, Members will be able to consider many of these issues whilst considering a draft.

5. DRAFT NEWSLETTER No. 1/2011 (BCE/2010/Paper 30)

- 5.1 As the PVS&C Bill approaches the final stages of its Parliamentary passage, Members decided that a Newsletter should be issued in order to:-
- a) provide an update on the progress of the Bill;
 - b) explain some of the main implications of the Bill for the next review;
 - c) confirm the change of Secretary; and
 - d) confirm the Secretariat's change of address.
- 5.2 Members decided that publication of the Newsletter should be in January 2011 when more was known about the detail of the Bill with regard to the tabled amendments. The draft Newsletter will therefore be considered by email and amendments sought by Members before the next meeting. As usual, the Newsletter will be sent to everyone on the general mailing list, to all local authorities and to every English MP.

6. DRAFT TIMETABLE FOR THE SIXTH GENERAL REVIEW (BCE/2010/Paper 31)

- 6.1 Members had considered a draft timetable for the sixth General Review at previous meetings, with each fresh consideration being undertaken to take account of significant changes to the anticipated statutory framework for the review.
- 6.2 The current draft timetable had been amended to take account of the need to submit progress reports to the Speaker on the conduct of the review (each January) and the appointment of ACs to consider the representations and submit reports with recommendations to the Commission. The Secretariat felt that the draft is a robust document that takes account of all the main strands of the review process (as set out in the current version of the PVS&C Bill and notwithstanding an evaluation of the contemporaneous and staggered approaches which were considered below) up until the beginning of 2012 and that the timing assumptions upon which it is based are as accurate as can be estimated.
- 6.3 The timetable is grounded on a number of fundamental assumptions, changes to which will most likely have a significant impact on the overall timetable:- i.e. that there will be no local inquiries; there will be no separate opportunity to comment on the representations of others made in respect of the provisional recommendations; and that any consultation period in the review will be 12 weeks long (although these two assumptions were now likely to be superseded by an amendment to the legislation). However, it was noted that final clarity on these issues will not be possible until at least January 2011.
- 6.4 The Secretariat had given further thought to another fundamental assumption underpinning the timetable, namely that review work will progress contemporaneously across all regions of England, rather than in a “staggered” approach more akin to that used for previous reviews. Dr Kikugawa presented both options with a risk analysis assessment of each.

The Contemporaneous approach

- 6.5 Members were familiar with the main elements of taking a contemporaneous approach to the next review, the main distinguishing features of which were:-
- all public announcements about the review, including the release of provisional and revised recommendations, will be simultaneous across the whole of England;
 - there will be one common period, starting and ending on the same day across the whole of England, for each of the two expected consultation periods during the review;
 - Regional Teams within the Secretariat will be working on “their” regions contemporaneously at each stage of the review – including consideration of representations, and preparation of documents for ACs and Commissioners.
- 6.6 Members considered that the relative benefits of this approach are that:-

- many of the Commission’s stakeholders, internal and external, are assuming that this will be the approach taken;
- the publishing of each of the sets of recommendations simultaneously across England will allow the public and the media to form a clear “national” view as to the Commission’s proposals and will allow the proposals in each of the regions to be seen in a wider context. Similarly it will allow those with an interest in parts of a region which border another region to see clearly the proposals for “over the border”;
- this approach brings some simplicity of planning and clarity of administration and also extends to the placing of advertisements in the national daily and Sunday press.

6.7 However, it was considered that such an approach does carry inherent risks. Foremost amongst these is that such an approach effectively “hard-wires” into the Programme Plan points at which the Secretariat’s workload will be at a particular peak. These points include the publication of both sets of recommendations, the closure of each of the two main representation periods, and the points at which briefs on the schemes and representations are submitted to ACs and Commissioners. It is in part consideration of these possible peaks in work – and the corresponding “troughs” when work in the Secretariat will be less pressured – that has led the Secretariat to consider whether a more staggered approach to the work underpinning the review should be taken.

The Staggered approach

- 6.8 Under this approach, work would proceed on a basis more akin to the style of the phased working used at the fourth and fifth General Reviews. The scheme for the whole country would be drawn up and provisional recommendations printed for the whole of England at the same time. However, dispatch of the provisional recommendations to Places of Deposit and key stakeholders would take place on a phased basis: each review team would formally launch the representation period for only one of their regions initially, then after a period of time (possibly four weeks) would launch the second region, before finally launching it for their last region.
- 6.9 The closing dates of the consultation periods would be similarly staggered, ensuring that the length of the consultation period was the same for each region, as would the collation and preparation of papers for ACs and ultimately for the Commission.
- 6.10 Dr Kikugawa considered that the staggered approach would take longer than the contemporaneous approach. This was because the model assumed that, as staff would be new to the job, to conduct a third of the process would probably take the same amount of time as the contemporaneous approach. It also assumes that there will be no overlap between the stages. The model, therefore, highlights the maximum amount of time the staggered approach would take, which would be to lengthen the process by four months, although an extra two months was probably more realistic. It would be possible to conduct the staggered approach within the timetable, but it would leave little room for manoeuvre or for the production of the final report.

- 6.11 Furthermore, the model did not accommodate the possibility of their being an eight week consultation, followed by a four week consultation on the representations received at both the provisional and revised recommendations stages - the “eight plus four times two” potential amendment. This would add a further three months to the staggered approach, although it should still just be possible to adhere to the final deadline. It was noted that this amendment would also result in any spare “overflow” time at the end of the review in the contemporaneous approach being swallowed up.
- 6.12 The model also assumes that Royal Assent is received by 31 January 2011. If this is not the case, Dr Kikugawa considered that this, and the “eight plus four times two” amendment, would mean that the staggered approach will be difficult to achieve within the statutory timetable.
- 6.13 Despite these issues, it was nevertheless considered by the Secretariat that this approach has some relative benefits over the contemporaneous approach - the primary benefit being that the bulk of the Secretariat’s work, having been broken down into smaller regional packages, will peak at separate times rather than all at once. Equally, some of the “troughs” where work is less pressured will occur at different times. The overall effect should be to give staff a greater learning curve in new tasks and result in a more constant workflow; still perhaps with peaks and troughs but less pronounced.
- 6.14 As noted above, this approach is more akin to the Commission’s previous practice, however, without a major review of local government boundaries preceding it as was the case at the previous two General Reviews. However, as the next review process will be different from previous reviews, it may be helpful, for example when dealing with stakeholders, to be able to stress those aspects of the Commission’s work which represent a continuation of previous practice.
- 6.15 It was considered, however, that there are a number of other potential risks to the staggered approach:
- The first relates to the handling of “cross-regional” representations – that is, a representation which proposes a constituency that comprises parts of two (or more) regions. Whilst Members have previously indicated that they will be seeking to propose schemes which will not feature any cross-regional constituencies, there is nothing within the rules (as currently drafted) which precludes such constituencies and which would therefore immediately render any representations in favour of such constituencies invalid. The Commission had previously decided to announce in advance of publication of the provisional recommendations that it will be using the regions to allocate constituencies, in line with previous practice of using pairs or groups of local authority areas. But in publishing recommendations for one region before those for a neighbouring region – and therefore allowing less time during which both regions can be considered “side by side” – the Commission considered it will need to be mindful of criticism and even legal challenge on the question of whether it had closed off options prematurely;
 - another risk will result from the inability of major stakeholders – not least the media and the public – to see the Commission’s proposals as part of a “national” picture.

Other issues considered

- 6.16 So far as it has been possible to determine, a choice between the two approaches is cost-neutral. Both rely on the same staff profile, the same administration costs and the same time commitment from ACs and Members. It would not be necessary to place separate advertisements in newspapers to signal the start of the reviews in each of the regions; instead one advertisement could set out clearly the different timings involved for each region, including the start and end dates of the representation period.
- 6.17 A staggered approach for England would almost certainly represent a different approach from that taken by the other three Boundary Commissions, who are expected to publish for the whole of their nation on one particular day. However, as previously noted, a divergence in practice in this way does not necessarily represent a major concern.
- 6.18 As the final shape of the Bill was still uncertain, it was not possible at this stage to plan to a particularly fine degree, given that a number of crucial assumptions remain liable to change. However, it was considered that the two broad approaches discussed should be adaptable to whatever emerges from the Bill by way of processes that the Commission is required to carry out by virtue of the legislative requirements.
- 6.19 In addition to the points identified in paragraphs 6.10 - 6.12 and 6.15 above, Members considered that a major risk with the staggered approach was that the project did not leave much scope for unforeseen risks and could overrun. As such, they did not consider that it offered any big gains over the contemporaneous approach, and that the points in favour of adopting the contemporaneous approach appeared to outweigh those favouring the staggered approach. However, they expressed concerns that, faced with an unknown quantity of representations, the contemporaneous approach could result in the Secretariat staff being overwhelmed, although due to the requirement of individuals to submit viable counter-proposals if they objected to the Commission's recommendations, the Secretariat considered that the number of overall substantive representations could be somewhat lower than in previous reviews, notwithstanding the more radical nature of the review.
- 6.20 Members also considered whether there could be a mix of both approaches, if, for example, the Secretariat staff were being overwhelmed at the start. It was thought that it would be possible to start the analysis before the consultation process was complete. This would also have the benefit of identifying many of the key issues early on in the process. It was considered by the Secretariat that this was feasible. It was also considered that staff would need to become quickly up to speed in the contemporaneous approach and that they will need some knowledge of the other regions to enable them to consider any cross-regional counter-proposals that might be submitted.
- 6.21 In conclusion, Members expressed a preference for the contemporaneous over the staggered approach for the reasons discussed, and specifically:-
- in the event of there being a challenge based on difficulties in raising representations that crossed regional boundaries;

- should the media and MPs or other interest groups create negative publicity because they cannot see the whole programme in one go; and
- that the staggered approach could cause the project to run over.

6.22 However, Members considered that a form of the staggered plan could be established as a fall-back option if the contemporaneous approach ran into difficulty. Members requested that an “early alert” mechanism be established to provide the earliest possible notice of the likelihood of any such problems occurring.

7. THE APPOINTMENT OF ASSISTANT COMMISSIONERS (BCE/2010/Paper 32)

7.1 Members considered a number of broad issues relating to the appointment of ACs at the meeting on 19 October 2010. They decided that even in the expected absence of local inquiries, it would be appropriate to appoint ACs to a panel to assist with the forthcoming review, specifically, to undertake the task of analysing the representations for a defined area and then writing a report analysing the representations and setting out recommendations on that area for the Commission. It was considered that a panel of up to thirty ACs who had acted as ACs during the Fifth General Review should be established. The Secretariat was asked to consider the most appropriate method by which to secure the appointment of the panel and to consider the cost implications of appointing ACs in more detail.

The Role of Assistant Commissioners

7.2 ACs have previously been used during General Reviews to conduct local inquiries. In the absence of local inquiries, it is expected instead that ACs will be appointed for the purpose of considering representations made to the Commission in respect of the provisional recommendations for constituency boundaries. Specifically, the individuals would be appointed for a limited period during which time they would be required to:

- i. consider the written representations (and written submissions regarding the original written representations of others, should the Commission decide or be required to invite them) made in respect of the constituencies in each of the nine regions;
- ii. write a report that summarises all the arguments presented, reaches a recommendation that is based upon the evidence and the relevant legislation, and justifies that recommendation. The reports would then be submitted to the Commission for decision.

7.3 Ideally, the Secretariat would analyse each representation and provide a simple statement of what the representation proposed and aggregate these accordingly if a number of them were similar in nature, but it was considered that this might be an impossibly large task, depending on the level and complexity of the representations received. Moreover, it was considered that if the analysis had not been correct and thorough, this would present the greatest risk of there being a judicial challenge. Members considered that the ACs should be an important, independent “second tier”

between the Secretariat staff and themselves by conducting some sort of quality assurance on the analysis of the Secretariat to ensure thoroughness and accuracy of review and consistency across the analysis of representations. As it was of critical importance that the relationship between the Secretariat analysers, the ACs and Members should be clearly specified, Members asked the Secretariat to consider this issue in more detail and to bring it before them at a future meeting.

- 7.4 Members also asked the Secretariat to ensure that the person specification was very explicit about the qualities that were required of an AC. The job specification must make it very clear that ACs would be required to quickly read, understand and analyse large amounts of sometimes complex information and suggested that the existing wording, which refers to absorbing detail, should be altered to reflect the importance of ACs being able to digest information. Candidates would also be expected to make reasoned recommendations to the Commission and would need to be able to understand and apply the relevant legal principles required of the legislation governing the work of the Commission.
- 7.5 The person specification would also need to specify the seniority of candidates. Members asked the Secretariat to revisit such requirements they considered earlier in the year when it was thought that local inquiries might be held, and to incorporate these into the person specification. The person specification would also need to specify, as best it could, the amount of time that an AC was likely to have to set aside for the task and for candidates to provide some sort of commitment to the required time and dates on between which the work would need to be conducted.

The Status and Number of Assistant Commissioners

- 7.6 As Members had specifically requested that the AC appointees provide independent scrutiny of a type similar to that provided by those ACs who were formerly appointed to chair local inquiries, using officials from the Secretariat for this purpose would by definition not provide this independence – nor, by extension, would the use of other officials drafted into the Secretariat team, perhaps on short-term contracts. As well as informing the pool of candidates who would be suitable for the role, this decision also confirms the need for a different type of recruitment process from that that would be used for recruiting civil servants or other “ordinary” officials.
- 7.7 It had been assumed that each region could be covered by one AC. With nine regions to cover, and on the basis that each AC will be required to set aside a one month period for the work approximately six months after they have been appointed, this suggested the most appropriate size for a panel of ACs for the next review will be in the region of 12 to 15. However, Members now considered that this might not be sufficient in view of the possible need to engage up to two ACs per region if the level of representations was high, and decided that there should be 30 ACs recruited to the pool. This should also provide sufficient safeguard to counter inevitable diary challenges.

The Regulation of the Recruitment Process

- 7.8 After receiving legal advice, consulting the CO Propriety and Ethics team and EDD, and considering practice in the other UK Commissions, the Secretariat concluded that

the appointment of ACs is not a process that is required to be regulated by the Office of the Commissioner for Public Appointments (OCPA).

7.9 Initial legal advice from the Treasury Solicitor’s Department was inconclusive, and indicated that there is scope to argue the point both ways. The lack of clarity stems partly from the fact that the Parliamentary Constituencies Act 1986, which sets out the provisions relating to the role of ACs, was not drafted with the OCPA Code in mind, and vice versa.

7.10 However, conclusive evidence in support of the Secretariat’s conclusion, that the appointments are not regulated by OCPA, was contained in advice supplied by OCPA, which had been prepared in consultation with OCPA’s own lawyers. After determining that the appointment of ACs to the Scottish Commission could not come within OCPA’s remit, it concluded that:-

“Our legal advice is that the Parliamentary Constituencies Act 1986 applies the same constitutional position to each Boundary Commission. On this basis, the same legal position would apply to Assistant Commissioners on the Boundary Commissions for England and Wales as to the Boundary Commission for Scotland.

On the basis of this advice, these appointments do not come within the Commissioner for Public Appointments’ remit.”

7.11 Despite the fact that AC appointments are not regulated by OCPA, the Commission considered that its appointment process should follow recognised best practice for public appointments, not least to avoid the prospect of legal challenge at a later date. Members considered that close consultation with the CO Propriety and Ethics team will enable them to be confident that the Secretariat will be following the relevant best practice. In addition, the Secretariat will liaise closely with EDD. This is because as stipulated by the 1986 Act, AC appointments are made by the Secretary of State (which for the Commission’s purposes can be taken to be the Deputy Prime Minister). Close involvement of the Deputy Prime Minister’s officials, who will advise him as to his decisions on appointments, will lower the risk of the rejection of candidates late in the process.

7.12 The lack of a legal requirement to follow the “full” OCPA process also presented the Commission with a greater degree of freedom in its approach to recruitment. Members considered that, if it so desired, the Commission could choose to run the appointments process as if it were OCPA regulated, with reference to relevant OCPA guidance and procedures, in order to ensure the maximum possible rigour, security from legal challenge and diversity and quality of candidates. Conversely, they could decide to take an approach of the “lightest touch”, liaising with EDD and Cabinet Office Propriety and Ethics on a bare minimum of occasions.

7.13 One area of potential concern highlighted in early discussions with EDD is the diversity of the candidates that might be put forward for appointment. A recent similar recruitment exercise which required the Secretary of State’s approval – though not one connected to this Commission – resulted in adverse comments from the Secretary of State about the lack of diversity of the candidates selected. Whilst the

Secretary of State concerned was not the Deputy Prime Minister, the Commission can still expect this to be an area where it will need to be alert to potential criticism.

Recruiting from the Pool of Previous Assistant Commissioners

- 7.14 At the last meeting, it was suggested that the panel of ACs for the next review could be recruited from the pool of those who had acted as ACs during the fifth General Review. However, the Secretariat had established that very few of those who formed the pool of ACs during the fifth General Review could probably be used in the sixth Review for a variety of reasons, such as retirements and appointment as Circuit Judges. Many were called to the Bar prior to 1970. Members therefore decided that it would not be pragmatic or sensible to consider this a useful source of applicants and that all ACs would need to be recruited through open competition. This should also alleviate any concerns there might be about the diversity of candidates.

Cost Implications of Using Assistant Commissioners

- 7.15 The Secretariat had given an undertaking to consider in more detail the cost implications of using ACs. The costs associated with the appointment and engagement of ACs are likely to fall within the following headings:

- Recruitment: advertising. Members considered that they could advertise for ACs in the national press (for example the Times) and professional journals such as The Lawyer, Counsel Magazine, Bar News and the Law Society Gazette. They also noted that to address the question of diversity, representative bodies within the legal profession – for example the Association of Women Barristers, the Society of Asian Lawyers, etc. – could also be proactively notified of the selection process, in order to raise awareness amongst their membership. As a guide, they noted that sample costs from the Times are between £2,000 and £4,000 depending on the size of advert required. They considered they might also advertise on the Public Appointments Unit website, which carries vacancies for a wide range of public bodies in the UK. Such an advertisement would be free of charge. However, they deferred any decision on advertising until a later date.
- Recruitment: process and administration. Most of the administration of the recruitment and selection process will be undertaken by the Secretariat and there will therefore be negligible additional cost implications. If Commission Members or staff from the Secretariat were to serve on the selection panel, the remuneration costs and expenses would be subsumed within the relevant existing Commission budgets. If it were an external assessor were used, perhaps drawn from the list maintained by OCPA of those considered suitable to sit on selection panels, this could be achieved at a daily rate of approximately £250 a day. Assuming, for example, a period of six days' work, in the context of the Commission's existing budget the cost implications of using such an assessor are minimal.
- Remuneration. If the daily rate for ACs were tied to that of Commissioners, it would be £505.50 per day. At this stage, it was difficult to speculate beyond broad assumptions as to the workload of an AC at the forthcoming review. An

original assumption was that nine ACs out of the panel of 12 to 15 appointees might be used (one for each region); each will spend six days considering all the representations for each region, two days to consider counter-representations (should they be permitted by the Bill) and ten days to write the report. Eighteen such days for each of nine ACs would equate to £82,000. In the absence of counter-representations being allowed, the corresponding figure would be £73,000. The appointment of more ACs would therefore inevitably result in increased costs. However, given the bulk of this expenditure would not be incurred until the financial year 2012/13, this gives sufficient time to plan accordingly and the Secretariat hoped that this figure could be met from within the existing budget provision.

- 7.16 Members requested that the appointment and role of ACs be included on the agenda for the next meeting of the Commission.

8. A SCHEME FOR ENGLAND (BCE/2010/Paper 33)

- 8.1 Both Mr Elvin and Mr Pringle attended the Secretariat's office between 8 and 11 November 2010 to consider the draft scheme for England which formed Paper 26, which was tabled at the meeting on 19 October 2010. During the visit, they were asked to select a preferred option for each region, or to make suggestions to the Secretariat for any alternatives that should be prepared in the event that any of the draft schemes presented were not acceptable. Some alternative options were required and both Members returned to the Secretariat's office on 17 November 2010 to consider the alternatives prepared by the Secretariat in the light of suggestions made.
- 8.2 The outcome of that process is a draft scheme for England where 503 constituencies have been provisionally selected. Based on the 2010 electorate, all the selected constituencies have an electorate that is within 5% of the UK electoral quota (EQ) of 75,862. A brief outline of the reasons for the chosen scheme in each region was noted by Members as well as the number of constituencies in each percentage band (1%, 2% through to 5%) from the EQ.

Issues arising during discussions of the schemes

- 8.3 Mr Elvin reported that he found the exercise to have been extremely useful and that it highlighted the narrowness of the options that would be available to the Commission in achieving a disparity of no more than 5% between constituencies. He expressed his gratitude to the Secretariat for the assistance provided to himself and to Mr Pringle in considering the options and requesting alternative options to be run. There were two major issues that arose from the consideration of the draft schemes: the limitations imposed by the wards and their sizes – both electorally and in terms of area - and the sub-division of the regions. In all regions, except for one (the North East), the Secretariat had created either three or four sub-regions. In most, this was based on either a single county, or a pair or group of neighbouring counties. All of the selected sub-regions were chosen so that they could be used to easily create a whole number of constituencies with electorates within 5% of the EQ and to also be within the limit of thirty constituencies for a review area: a limitation imposed by the GIS software. In two regions (Greater London and the North West), this did not provide distributions that Members considered to be the best option.

- 8.4 In Greater London, Members were concerned about the extension of the East North London area across the River Lee. This had been proposed because it was not possible to create constituencies with electorates within 5% of the EQ in those boroughs to the east of the Lee. In Central North London and West North London, Members were also concerned that the arbitrary division between the two parts did not allow them to fully consider a range of options. For the 17 November 2010 meeting, the Secretariat had created a new scheme based on a new combined North Central and North West London review area.
- 8.5 In the North West region, Members did not object to the pairing of the Cheshire East unitary authority with Greater Manchester, but considered that a better solution would be for the review area to include the Cheshire West and Chester, Halton, and Warrington unitary authorities. As the Borough of Wirral in Merseyside needed to be included with Cheshire West and Chester, the Secretariat created a single review area that united all of the former county of Cheshire with Greater Manchester, and Merseyside. A new scheme was created for the review area.
- 8.6 Members noted that of the 192 existing constituencies, it had been possible to retain 62 unaltered, which represents 12.3% of the 503 allocated. They also noted that 58.2% of the draft constituencies are within 2% of the EQ and that the figure rises to 79.8% within 3%. This is a considerable achievement given the size (both electoral and geographical) of the wards in some parts of England.
- 8.7 Members also noted the number of constituencies between which the 326 districts in England have been divided. For example, in the North East region, Hartlepool with a 2009 electorate of 68,262 has been contained within one constituency whereas, in the West Midlands region, Birmingham with a 2009 electorate of 717,955 has been divided between thirteen constituencies: its electorate, when divided by the electoral quota of 75,862 would entitle it to 9.46 constituencies.

Names

- 8.8 Members selected names for a number of the schemes and other names had been suggested by the Secretariat. In a few instances, Members decided to rename an otherwise unchanged constituency (e.g. Shrewsbury and Atcham CC becomes Shrewsbury CC). Members considered that it would be necessary to review the policy on the naming of constituencies before the scheme was reconsidered, once the selected constituencies have been updated with the 2011 electorates.
- 8.9 Members requested that all of the selected schemes should be supplied to them as a series of A3 maps. It had been hoped to provide this for the meeting, but due to pressures of work and the transfer of the Secretariat to new accommodation, the maps would not be provided to Members until the first meeting in 2011. However, the maps will need to be A2 in size as A3 size makes it hard to interpret the boundaries of the constituencies.
- 8:10 In summary, Mr Elvin said that the exercise had been necessarily quite mechanistic in nature and that it was clear that many people would be very surprised at a number of the outcomes. As considered earlier in the discussion on the Booklet and Newsletters,

the management of expectations would be critical, particularly where a constituency had been significantly changed despite having an electorate that was close to the EQ; the Commission would have to go to considerable lengths to make it clear that their options were limited by the requirements of the legislation. It was also clear that a wide range in the shapes and sizes of wards would make the exercise particularly difficult and strengthened the case for a finer grained unit as a building block for future reviews.

- 8:11 The Deputy Chairman expressed a desire to attend a briefing session with the Secretariat when the final draft scheme for each region would be looked at in more detail.

Rejected schemes and Freedom of Information (FoI) requests

- 8.12 Members and the Secretariat had discussed whether information relating to the draft schemes that were rejected would need to be made available if a FoI request was received. It was the view of both that such information is liable for disclosure under the Commission's information scheme. It was considered that there would be virtue in such transparency and that release of such information would not cause any problems and that disclosure upon request would further enhance the transparency of the process.

9. OTHER BUSINESS

Commission meetings

- 9.1 It was considered by Members that there will have to be more frequent meetings as the review progressed, particularly in the early stages, but when these would be held would be subject to Members' availability. Members expressed a preference for meetings to be held during the daytime.

Secretariat away-day

- 9.2 A team-building away-day had been arranged for 19 January 2011. The purpose was to instil a team spirit in the Secretariat with the arrival of many new staff from different backgrounds. Members confirmed that, if possible, they would attend during the lunch break in order to meet the new team and to introduce themselves.

Date of the next meeting

- 9.3 The next meeting would be held on Monday 21 February 2011 at 35 Great Smith Street, London SW1P 3BQ. It would commence at 9.30am.