

PUBLIC HEARINGS

Introduction

1. Section 5(1)(b) of the Parliamentary Constituencies Act 1986 ('the Act') requires public hearings to be held during the initial consultation period (specifically during weeks 5-10 of the overall 12-week period). Schedule 2A to the Act (provided at Appendix A for ease of reference) makes more detailed provision for these public hearings, but leaves a number of matters within the discretion of the Boundary Commissions and those who chair the public hearings. Set out below are the issues we have identified as needing early policy decisions, factors to be considered in making those decisions, and the recommendation of the Secretariat in each case.

2. Members are asked to confirm the number and location of hearings, as this information will need to be included in documentation being drafted now. Members are also asked to determine their policy on the timing of hearings within a region, as this information will need to be factored into the logistical planning for the hearings, which will be commencing imminently. Members are asked to provide an initial steer on the procedure for hearings, as more detail can then be developed for final approval.

Number and location

3. The Act provides that there must be a minimum of two and a maximum of five public hearings in each region of England. This equates to a minimum of 18 and a maximum of 45 public hearings across the whole of England.

4. The Secretariat have given some thought to what would be an appropriate number of hearings for each region, and where those hearings could most usefully be located, taking into account:

- the relative number of electors in each region (relevant to the likely level of demand);
- the relative geographical size of each region (relevant to the distance a potential attendee would have to travel);
- the relative road and rail infrastructure in each region (again relevant to the travel demands placed on a potential attendee);
- the relative complexity and/or contention of the likely scheme in each region (again relevant to likely level of demand);
- the existence of any areas within regions that we know are likely to be particularly sensitive (for example, this could suggest a hearing in Devon and a hearing in Cornwall, even if purely geographical or infrastructure factors did not suggest that this were required);
- the limited resource available to facilitate the hearings within the prescribed timeframe.

5. Whilst the latter factor clearly cannot be a primary driver for the number of hearings, it is an underlying issue to be borne in mind. Members will recall that a supplementary budget bid had to be made to the sponsor Department following the late inclusion of public hearings

in the legislation just before it became an Act in mid February. That budget bid was made on the broad basis of an average of four public hearings in each region, i.e. 36 hearings overall. It should be noted that the Commission’s proposals on number and location of hearings is likely to come under considerable public scrutiny. It will be relatively easy for interested observers to construct counter-arguments particularly based on the number of hearings that will take place in a region relative to its size or electorate: put crudely, we can expect arguments of “Region X has four, therefore our region should have at least four”. Particularly careful consideration therefore needs to be given to the justification behind decisions on the number of hearings.

6. Taking all those factors into account, discussion within the Secretariat has resulted in a recommended number of hearings for each region – and suggested location of those hearings - as set out in the table below (see also region maps at Appendix B). The Secretariat recommends this as the minimum viable number of hearings.

Region	Suggested number of hearings	Suggested locations	For reference	
			Proposed no of constituencies	Proposed no of consts. per hearing
Eastern	4	Colchester, Norwich, Luton, Cambridge	56	14
East Midlands	3	Derby, Lincoln, Northampton	44	15
London	5	North East (Ilford?), North West (Hendon?), South East (Bromley?), South West (Kingston?), Central (Westminster)	68	14
North East	2	Newcastle, Middlesbrough	26	13
North West	4	Manchester, Liverpool, Carlisle, Lancaster	68	17
South East	5	Portsmouth, Milton Keynes, Reading, Crawley, Maidstone	83	17
South West	4	Exeter, Bristol, Bournemouth, Truro	53	13
West Midlands	4	Birmingham, Coventry, Stoke, Hereford	54	14
Yorkshire & The Humber	4	Hull, Leeds, Sheffield, York	50	13
Total	35		502	Average=14

7. Members are invited to indicate that they are content with the suggested number of hearings per region and the suggested locations, or to provide alternative proposals.

8. The Act provides that the chair of a public hearing “must allow representations to be made by each qualifying party” – i.e. one registered with the Electoral Commission and with at least one MP and/or 10% of the vote in the last general election in the relevant region.

9. Experience from local inquiries under the old statutory framework suggests strongly that parties in this position will have an overarching region-wide strategy, as well as things to say about specific areas within a region. To convey all of this will take up a substantial amount of time across a number of different hearings in a region, and will potentially be repetitive if a party wishes to state its full region-wide view at each hearing in that region.

10. One alternative might be to secure the agreement of the parties to waive their right to speak at each individual hearing in a region, in return for a special set-aside hearing at which only the political parties would make presentations, but could each have a longer session than they might be given at hearings where individual members of the public were also making presentations. This strategy could not be employed where a region already had the maximum 5 public hearings, and might also be perceived as the Commission placing greater importance on what the parties had to say than anybody else. However, the purpose and effect would in fact be to increase in most regions the amount of time available to the general public at hearings.

11. Members are invited to provide a view on the desirability of special hearings for qualifying parties.

Timing of hearings within a region

12. As noted above, there are likely to be between 35 and 45 hearings to conduct within a period of six weeks. A region will have between two and five hearings, and the vast majority of hearings will last two full days (see below). The question arises as to whether it would be preferable to seek to group all the hearings in a region together in time – such that most regions could have their hearings completed in a two-week period – or spread the hearings for a region more widely across the full six-week period.

13. Arguments for grouping are primarily that it will: a) possibly generate a more focused and coherent understanding of the region on the part of the Assistant Commissioners it is intended will chair the hearings in that region; and b) should generate slightly reduced travel and subsistence costs than the alternative of potentially criss-crossing the country. In addition, there would potentially be a greater sense of “momentum” about the process within the region: local media would be able to generate interest about a process that is taken place over a relatively short space of time. This could be lost if say three hearings took place spread out over a six week period.

14. The main argument for spreading the hearings out is that having the whole six-week period to schedule with (rather than just two weeks) could increase the likelihood of securing attendance by: a) the Lead Assistant Commissioner for the region (i.e. less likely to need to call in someone else to chair a hearing); and b) some members of the public, (who might not be able to attend during a particular two-week period, but might be able to at some other point in the six weeks).

15. Members are invited to indicate a preference for grouping or spreading out hearings within a particular region.

Chair of hearing

16. Members have previously decided that hearings should be chaired by Assistant Commissioners, and a separate paper is being provided detailing proposals for the recruitment and role of such individuals.

Length of hearings

17. The Act provides that a public hearing should last a maximum of two days. Given that there will be a maximum of five hearings to cover an entire a region, the recommendation of the Secretariat would be that each hearing should be scheduled for the full two days, as expectation and demand is likely to be high, at least for this first review under the new statutory arrangements.

18. In relation to the length of the hearing day (which will need to be taken into account when sourcing appropriate venues), one possibility could be to aim for the first day to start late morning, and then run into the evening (so as to allow attendance by those who may be at work during normal working hours), whilst the second day should be normal working hours (though we recognise that such later running on the first day might not be possible in all venues) Alternatively, it could be decided in advance that both days of a hearing should run during normal working hours.

19. If the suggestion of a special ‘parties-only’ hearing in some regions is adopted, we suggest these hearings be restricted to a single day, operating during normal working hours, and take place immediately before or after – and in the same location as – a hearing scheduled for the general public, as this minimises the additional logistical and resource impact.

20. Members are invited to confirm their preference for the length and scheduling of public hearings.

Procedure at hearings

21. Members are invited to give their general views on the suggested outline of procedure for hearings set out below. A more detailed formal statement of procedure will subsequently be worked up for Commissioners to confirm prior to publication in the information booklet.

22. Schedule 2A to the Act makes some broad provisions relating to procedure, largely leaving most of the detail within the discretion of the hearing Chair. In order to ensure that there is a basic level of consistency across all public hearings in England, we suggest that Members agree a common procedural framework for meetings, which will be publicised in advance (e.g. in the information booklet) and to which hearing Chairs will be expected to adhere. The approach we suggest would be as follows.

23. Introductory presentation by senior BCE Manager. Paragraph 6 of Schedule 2A to the Act provides that the Chair will make arrangements for the hearing to begin with an explanation of the proposals to which the hearing relates and information about how written representations may be made. Such a presentation is likely to be best made by a senior BCE Manager (Review Co-ordinator or above), assisted as necessary on the technical detail by a relevant Review Team Officer with detailed knowledge of the proposals for that region.

24. Limited time periods for those wishing to speak. Paragraph 7(2) of Schedule 2A to the Act provides that the Chair may restrict the amount of time allowed for representations and need not allow the same amount of time to parties and others. Provisionally, we would suggest that a qualifying political party be entitled to 60 minutes at a hearing, as – unless the special hearing approach outlined above is adopted – they will most likely wish to outline their whole-regional view at each hearing as well as focusing on the particular area in which that hearing is located. For most regions, there will be three qualifying parties wishing to speak at a hearing (four in the South East, where the Green Party now has an MP), so this alone takes up around half of a day. Other individuals wishing to speak we suggest should be allocated 15 minutes each.

25. Advance booking for speakers. Paragraph 7(3) then goes on to say that the Chair may determine the order of speakers, and if necessary not allow individuals to speak if there is a shortage of time. So as to avoid potential difficulties in making these decisions only ‘on the day’, we suggest a system of advance booking be put in place. With this, dates and locations of public hearings should be advertised well in advance (we suggest published alongside the provisional proposals themselves), and those wishing to speak at a hearing be encouraged to apply for a specific hearing by no later than two weeks beforehand. BCE staff would then allocate the individuals to specific times and dates (by drawing of lots in the event of applications being over-subscribed), notifying the individuals concerned one week beforehand.

26. Advance booking for non-speaking attendees. Members may also wish to consider instituting a system of advance booking for general non-speaking attendees at hearings, in order to minimise the scope for disruption in the event that more people turn up on the day than can be admitted (e.g. due to fire regulations). We do not suggest an absolute requirement to pre-register for non-speaking attendees, but a proviso that admission cannot be guaranteed without advance booking.

27. Tight regulation of questioning to speakers. Paragraph 8 of Schedule 2A to the Act provides that the Chair may put questions – or allow questions to be put – to a person attending the hearing, and may regulate the manner of such questioning or the number of questions. In replacing the old legislative provisions concerning ‘local inquiries’, one of Parliament’s intentions with the new provisions appears to have been to do away with the open-ended ‘cross-examination’ style of oral session, whilst allowing opportunity for clarification where appropriate. Additionally, hearings will now be operating with a very restricted amount of time available (and subsequently the restricted time within which speakers have to make their presentation). We therefore propose that the guiding framework for Chairs should follow a similar convention to that adopted by local authorities that allow questioning from members of the public attending a Council meeting, i.e. a prescribed limit of time during which questions may be asked, and a limit on ‘follow-up’ questions. We also suggest that questions are required to be put ‘through the Chair’ rather than directly at the presenter (as in the House of Commons), as this generally assists to prevent confrontational attitudes where the subject matter is very contentious.

Record of public hearings

28. Section 5(4)(a) of the Act requires the Commission to publish “records of public hearings”. Whilst one interpretation of this may be that it would be satisfied by a summary of what was said at the hearings, in order to avoid the possible risk of a summary being alleged to be inaccurate by selective omission or misinterpretation, we suggest that – as with local inquiries in the past – the requirement is met by the taking of a verbatim transcript of proceedings. Secretariat staff are currently researching availability of providers and likely costs to ensure an effective and value for money service can be secured.

Section 5

SCHEDULE 2A to the Parliamentary Constituencies Act 1986

PUBLIC HEARINGS ABOUT BOUNDARY COMMISSION PROPOSALS

Purpose of hearings

- 1 The purpose of a public hearing is to enable representations to be made about any of the proposals with which the hearing is concerned.

Number of hearings

- 2 (1) In relation to any particular report under section 3(1)(a) of this Act –
 - a) the Boundary Commission for England shall cause at least two and no more than five public hearings to be held in each English region;
 - b) the Boundary Commission for Scotland shall cause at least two and no more than five public hearings to be held in Scotland
 - c) the Boundary Commission for Wales shall cause at least two and no more than five public hearings to be held in Wales
 - d) the Boundary Commission for Northern Ireland shall cause at least two and no more than five public hearings to be held in Northern Ireland.
- (2) The public hearings in an English region shall be concerned with proposals for that region, and shall between them cover the whole region.
- (3) The public hearings in Scotland shall be concerned with proposals for Scotland, and shall between them cover the whole of Scotland.
- (4) The public hearings in Wales shall be concerned with proposals for Wales, and shall between them cover the whole of Wales.
- (5) The public hearings in Northern Ireland shall be concerned with proposals for Northern Ireland, and shall between them cover the whole of Northern Ireland.

Chair of hearing

- 3 For each public hearing the Boundary Commission concerned shall appoint a person to chair the hearing.

Length of hearings

- 4 A public hearing shall be completed within two days.

Procedure at hearings

- 5 It is for the chair of each public hearing to determine the procedure that is to govern that hearing.
- 6 The chair shall make arrangements for a public hearing to begin with an explanation of –

- a) the proposals with which the hearing is concerned;
 - b) how written representations about the proposals may be made (as mentioned in section 5(1)(a), (4)(b), or (5)(c) of this Act).
- 7 (1) The chair of a public hearing must allow representations to be made –
- (a) by each qualifying party;
 - (b) by any other persons (whether individuals or organisations) considered by the chair to have an interest in any of the proposals with which the hearing is concerned.
- Paragraph (b) above has effect subject to sub-paragraph (3)(b) below.
- (2) The chair may restrict the amount of time allowed for representations –
- a) by qualifying parties, and
 - b) by other persons,
- and need not allow the same amount to each.
- (3) The chair may determine –
- (a) the order in which representations are made, and
 - (b) if necessary because of shortage of time, which of those wishing to make representations are not allowed to do so, in whatever way the chair decides.
- 8 (1) The chair may put questions, or allow questions to be put, to a person present at the hearing.
- (2) If questions are allowed to be put, the chair may regulate the manner of questioning or restrict the number of questions a person may ask.

Interpretation

- 9 In this Schedule –
- “the chair” means the person appointed under paragraph 3 above;
 - “English region” means an electoral region specified in Schedule 1 to the European Parliamentary Elections Act 2002 (ignoring paragraph 2(2) of that Schedule and references to Gibraltar) as it has effect on the day referred to in rule 5(2) of Schedule 2 to this Act;
 - “public hearing” means a hearing under section 5(1)(b) of this Act;
 - “qualifying party” means a party that is registered under Part 2 of the Political Parties, Elections, and Referendums Act 2000 and either –
 - (a) Has at least one Member of the House of Commons representing a constituency in the region, or (as the case may be) the part of the United Kingdom, in which the hearing is held, or
 - (b) Received at least 10% of the [first preference¹] votes cast in that region or part in the most recent parliamentary general election.

¹ These words to be inserted if the voting system for parliamentary elections is changed to AV).