

PUBLIC HEARINGS – FINALISING POLICY

Background

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 Annex 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.
2. In consequence of the Commission's current planning assumption that it will publish its initial proposals in week commencing 12 September, public hearings will therefore take place from week commencing 10 October, and conclude mid-late November.
3. This paper sets out a number of recommendations for consideration by Members (see below). For ease of reference, Members will want to be reminded of the provisional decisions regarding public hearings that they took at their meeting on 4 April 2011, as follows:
 - The number and location (subject to availability of suitable venues) of the hearings in each region, as set out in Annex B;
 - That Assistant Commissioners should be appointed to act as the statutory Chairs of the hearings (a recruitment process is currently underway);
 - That hearings in a region should preferably be clustered together, rather than spread throughout the full six-week hearing period, though it was important to ensure that the 'lead Assistant Commissioner' for a region was able to chair as many of the hearings in that region as possible;
 - That the Chair would ultimately be responsible for running the hearing on the day, but would be expected to do so within a framework and guidance established by the Commission;
 - That each hearing should last the full two days allowed under the Act, with the first day advertised as starting around 11am and finishing at 7 or 8pm, and the second day advertised as 9am-5pm, but with the (unpublicised) flexibility to run beyond 5pm if necessary. Hearings would most likely be weekdays only.
 - Presentations at hearings should be in short prescribed time periods, which would need to be booked in advance if the individual wished to ensure they were able to speak. Individuals not booking in advance may be allowed to speak at the discretion of the Chair;
 - Questioning at hearings should be restricted to clarification and should be directed through the Chair, i.e. should not be in the style of 'cross-examination' of another's representations;
 - A verbatim transcript should be taken of every hearing, which would then be included for equal consideration alongside all written representations from that region. There would be no separate report of a particular hearing submitted by the Assistant Commissioner chairing it.

- That the idea of a ‘lead hearing’ should be explored further with the political parties – specifically having one hearing in each region (probably the first) at which the qualifying parties were given an extended time slot to present their ‘regional view’, allowing them to focus on the local area at subsequent hearings in that region. Ideally the ‘lead Assistant Commissioner’ (ultimately responsible for writing the report to Members with recommendations for that region) should Chair the lead hearing.
4. Members subsequently met with the political parties on 17 May, to discuss with them the initial proposals for public hearings. The anticipated number of hearings and distribution between regions were disclosed, but not the likely locations. Points made by the parties are set out under the relevant headings below

Consideration and recommendations

5. Members are invited to agree the individual recommendations highlighted in bold below.

Number of hearings

6. One party asked whether more hearings could be held in regions currently proposed for less than the statutory maximum, given the likely level of interest and change in this first review under the new statutory rules. The current number and distribution of hearings across the regions sees a broad parity between the regions in the ratio of hearings to electors/proposed constituencies. There are no particular issues of significant complexity or controversy in regions allocated less than the maximum number of hearings that have not already been taken into account in the proposed allocation. With a limited resource, the most effective deployment of that resource is to target our efforts towards those areas where there are the greater number of proposed constituencies (whilst taking into account areas of likely complexity). By providing the Commission with a certain flexibility over the number that may be held, the Act itself recognises that the five hearings may not be appropriate for every region. **We therefore recommend that the number of hearings in each region remain as set out at Annex B.**
7. We do not propose that the number of hearings in each region be published in the Information Booklet. However, the specific venues for the hearings should have been booked before the summer recess, so **we recommend publication of the final number, locations and venues of hearings on our website and in a Newsletter before summer recess.**
8. Also of relevance under this heading is the question of the interpretation and application of a “week” (the Act refers to public hearings taking place beginning with the fifth week of the initial consultation period and ending with the tenth). Legal advice confirms that this should be interpreted as ‘seven consecutive days’. As we are currently planning to launch on Tuesday 13 September (to enable embargoed advance copies to be issued on the Monday), this would mean the first week of the hearings would strictly only commence with Tuesday 11 October. Generally, we would suggest having the hearings on Monday/Tuesday and Thursday/Friday, but as we are planning to build the hearings up slowly (in part to avoid lead hearings clashing – see below), there is only one

hearing proposed for the start of the first week, so we do not believe this will be a problem.

Timing of hearings

9. The parties raised no concerns about the two days for every hearing, late start and finish on Day 1 of each, or the preference for clustering hearings in the same region together, so **we recommend final approval of these matters.**
10. One party asked whether or not a 2-day hearing might be split by a weekend, and also asked us to avoid overlapping different hearings in the same region. For resource reasons, **we recommend that each hearing should be held on two consecutive days** (thus avoiding the additional costs of duplicate travel or extended subsistence). For the avoidance of doubt, this would exclude the option of the first day of a hearing taking place on a Friday and the second day on the following Monday. We recognise that it makes sense logistically for both the Commission representatives (Secretariat and the lead Assistant Commissioner) not to overlap hearings in the same region, so **recommend that hearings in the same region should not overlap.**
11. Two parties raised the question of whether some hearings might be held at weekends. This would present the Commission with serious resource issues, due to the greatly restricted availability and increased cost of using staff at the weekend. Availability of Assistant Commissioners for weekend working may also be an issue. There is a reasonable expectation that those with a strong desire to speak at a hearing should be prepared to make themselves available (e.g. by taking leave of absence from a job), and others (e.g. MPs) may have jobs that enable them to work flexibly around attendance at a hearing. One party also added that it was important to reinforce the message that it was not necessary to attend a hearing in order to make your view known, i.e. a written representation would carry equal weight. Accordingly, **we recommend that hearings be held only on weekdays.**

Chairs

12. The parties did not query the preferred use of the lead Assistant Commissioner to chair as many of the hearings as possible in a region, or their being expected to work within a framework and guidance established by the Commission, so **we recommend final approval of these matters.**

Presentations

13. The parties broadly supported the principle of booking presentations in advance with the Commission, a minimum of 7-10 days before the hearing. There was a feeling that 15 minutes may be too long for a standard presentation, and there was a need to emphasise the value of 'short sharp contributions' (the comparison with time-limited debates on key announcements in the Commons was made). **Members will wish to take a view on the appropriate length of a basic time slot on the basis of the illustrative calculations appearing at Annex C – the Secretariat has no strong recommendation. Overall, we recommend that an advance booking system should be established, whereby a presenter will need to register their interest with the**

Commission Secretariat at least seven days before the hearing is due to take place. The Secretariat will then agree with the relevant Chair the allocation of time slots, based upon the level of interest shown in making a presentation. The Chair should retain the flexibility on the day to allow a speaker who has not pre-booked (or indeed to curtail or lengthen the time slot of a pre-booked speaker), but there are no obligations on them to do so.

14. There was a query about how and when a pre-booking system would be publicised. **We recommend that the general policy of there being a pre-booking system for allocating short time slots should appear in the Information Booklet, whilst the details of how the system will work should be published alongside the initial proposals themselves, with the system for booking not opening until then.** As noted above, whilst we will greatly encourage pre-booking, it will not be a strict requirement: an individual will still be able to turn up on the day and be allowed to make a presentation (though this will be at the discretion of the Chair, and there will be no guarantee that it will be possible or allowed by the Chair).
15. The parties asked what material the Commission would expect presenters to make available beforehand, and what support for visual aids would be available. In order for the Secretariat and Chair to be able to gain a good understanding of how long a time slot might be appropriate, **we recommend that a presenter be asked to provide a synopsis of their presentation at the time they make their booking. Whilst they need not do so, we recommend that those giving a presentation bring with them a copy of any written representation they plan to submit.** The Secretariat will develop for the agreement of Commissioners guidance material for the induction and training of Assistant Commissioner Chairs in the weeks leading up to the hearings, including dealing with issues that might arise from synopses. Whilst the Commission will provide a laptop and projector to enable display of a Powerpoint visual presentation, support for other specific visual aids will need to be requested at the time of booking, and the Commission will make reasonable efforts to facilitate that. **We recommend the Commission promotes the use of visual aids, and requests that presenters let the Secretariat have reasonable advance notice of any support needed to enable use of those.**
16. The parties asked how long the statutory initial presentation by the Commission itself would take up, and whether there would be a record of that for those who are not present for the start of the hearing. **We recommend that the initial presentation should be relatively brief, setting out the overall picture for the region and focusing on those key points where there is believed to be the greatest likelihood of complexity or controversy (as well as outlining how to make a written representation).**

Questioning

17. The parties supported the approach that questions should be of clarification only, and directed through the Chair, to avoid 'cross-examination', one party feeling particularly strongly that this was one useful way in which the distinction could be reinforced between local inquiries under the old system and the new public hearings. In their equivalent booklet, the Boundary Commission for Scotland appear to be more relaxed

about allowing question to be put directly to a presenter by a third party. This is potentially a slight difference of approach, but we suggest the retention on non-direct questioning, as it helps underpin the crucial cultural difference between new public hearings and old local inquiries (something one of the major parties felt was particularly important). **We therefore recommend that, subject to the discretion of the Chair on the day, this approach be finally approved.**

Transcripts

18. The parties supported the use of verbatim transcripts. **We recommend that visual aids used at a presentation be appended to the relevant transcript.** The parties raised a query about when the transcripts would be published. The Act requires that the record of the hearing be published after the end of the overall initial consultation period. In order to reinforce the equivalent weight and status of the transcripts and written representations, **we recommend that the transcripts be published at the same time as the written representations, at the start of the secondary consultation period.**

Lead Hearings

19. The parties broadly supported the concept of lead hearings. One party was keen to ensure that if the lead hearing was the first hearing in a region, it did not encourage other parties to attack those representations in future hearings. Such potential should be eliminated by self-regulation of the parties and ultimately the control exercised by the Chairs, as the statutory purpose of the initial consultation period is to support or object to (with counter-proposals) only the initial proposals put forward by the Commission itself. Accordingly, **we recommend that a system of 'lead hearings' be made available.**
20. The parties raised the question of whether the extended time slot opportunity to present a regional view would be offered to other organisations, particularly given the risk that the extended time slots would eat away at the time available for others to make their shorter presentations. It is very likely that other organisations or individuals will have a 'regional view' that they may wish to present. However, the time available for these hearings is extremely limited under the statutory provisions, and **we therefore recommend that only qualifying parties should be offered an extended time slot in the first instance.** The Act recognises 'qualifying parties' have a special status that gives them a right to speak at a hearing, and this can be used to justify the provision of extra time to these parties. Other organisations may still be granted an extension beyond the standard time slot if the Secretariat and Chair can see from their synopsis (see above) that they have substantial and realistic views to put forward that have not been presented in the region previously.
21. The parties were concerned to ensure that the lead hearings did not overlap with each other, as the same key individual was likely to wish to make the presentation at each. We recognise the importance of having the key individual present to make the most effective case for their respective parties. This will add another criteria into what is already a complicated matrix of considerations in plotting the dates and locations of the public hearings, but initial indications are that it is possible to establish a plan of locations and dates that avoids overlapping lead hearings. Accordingly, **we recommend**

that we should seek to avoid overlapping the lead hearings. However, it should be noted that this is reliant upon the ability to plan with a known hearing location in advance. It will therefore not be realistic to combine this criteria with the proposal to determine a lead hearing by reference to the actual level of interest shown by people generally in presenting at that hearing (see next paragraph), as this will only be known a relatively short period before the hearings actually take place, and in particular well after dates and locations have already been fixed.

22. Finally, the question of the location of the lead hearing has been raised. In the initial genesis of the lead hearing idea, some of the reason for having one concerned the possible use of it as a promotional opportunity, i.e. to help encourage public interest in the region generally, with hopefully a knock-on effect to boost participation in later hearings in the region. The maximum opportunity to realise this effect will arguably come if the lead hearing takes place in the most popular venue (likely to be the biggest urban centre of the hearings). Set against this is the argument that as the lead hearings benefit the qualifying parties at the cost of time for others to make presentations, the best place for the lead hearing to be is at the venue in the region that is the least popular in terms of those registering to make a presentation. Additionally, using the least popular venue for the lead hearing may provide a more appropriate venue in which to have potentially the most controversial and complex hearing in the region play out. In light of the point made in the preceding paragraph about the conflicting criteria of this consideration and the ability to avoid overlapping hearings, **we recommend that lead hearing be identified early in the planning, though the Secretariat has no strong view on which particular location should be chosen within each region** (e.g. the most or least populous location).

Next Steps

23. Following decisions taken above, the Secretariat will: map out the matrix of dates and locations of hearings, book appropriate venues; and draft guidance for the Assistant Commissioner Chairs on the procedure at and surrounding the public hearings (including matters such as agreeing speaking slots). The draft guidance is likely to be worked up through June and early July, for Commissioners approval by the end of July, ready for Assistant Commissioners appointments commencing – and induction and training starting - in September.

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).

Appendix B - Number & Location of hearings

Region	No	Agreed locations	Constituencies	Per hearing
North East	2	Newcastle, Darlington	26	13
East Midlands	3	Derby, Lincoln, Northampton	44	15
Eastern	4	Colchester, Norwich, Luton, Cambridge	56	14
South West	4	Exeter, Bristol, Bournemouth, Truro	53	13
West Midlands	4	Birmingham, Stafford, Warwick, Ludlow	54	14
Yorks & The Humber	4	Hull, Leeds, Sheffield, Northallerton	50	13
London	5	North East, North West, South East, South West, Central	68	14
North West	5	Manchester, Liverpool, Carlisle, Preston, Chester	68	14
South East	5	Portsmouth, Milton Keynes, Reading, Crawley, Maidstone	83	17
Total	36		502	Average=14

Appendix C - Number of presentations in a hearing – illustrations

15 minute slots

Basic

15 minutes per session, 1 hour lunch, 2x 15 minute breaks, 11-7 Day 1 & 9-5 Day 2

= **52 sessions**

Options (total across two day hearing)

For every 1 hour 'regional' presentation (lead hearing) = deduct 3 sessions each (-4+1)

If 'regional' presentations 30 mins only = deduct 1 session each (-2+1)

No tea/coffee breaks = +4

30 minute lunch = +4

Finish at 8pm on Day 1= +4

10 minute slots

Basic

10 minutes per session, 1 hour lunch, 2x 15 minute breaks, 11-7 Day 1 & 9-5 Day 2

= **78 sessions**

Options (total across two day hearing)

For every 1 hour 'regional' presentation (lead hearing) = deduct 5 sessions each (-6+1)

If 'regional' presentations 30 mins only = deduct 2 sessions each (-3+1)

No tea/coffee breaks = +6

30 minute lunch = +6

Finish at 8pm on Day 1= +6