

REVIEW OF PUBLIC HEARINGS

Introduction

1. In accordance with the requirements of section 5(1)(b) of - and Schedule 2A to – the Parliamentary Constituencies Act 1986 (as amended), the BCE conducted 36 public hearings across the nine regions of England between 11 October and 18 November 2011. Public hearings were fundamentally different from the local inquiries conducted as part of previous general reviews, and new systems and arrangements therefore had to be established this time around, often relying on a number of planning assumptions.
2. This paper analyses the delivery of these first public hearings under the new legislative process from a number of different perspectives, taking into account feedback received from political party representatives, members of the public, and Assistant Commissioners, as well as the direct experience of Secretariat staff. Where appropriate, the paper makes a number of recommendations with respect to the arrangements for public hearings in the next review.

Analysis and recommendations

Overview

3. The delivery of the hearings was generally felt to be successful from an administrative point of view, with significant positive feedback being received from a number of Assistant Commissioners (Annex A), all three main political parties, and some members of the public. By contrast, we have received very few complaints about the administration of the hearings, from individual members of the public.
4. A recurring feature was low attendance figures at many of the venues, with an average 33 speakers per hearing (against a nominal average maximum capacity of 58), and a low point of just five speakers at Sheffield. However, there were exceptions, such as Birmingham (with the largest number of speakers at 77), and a total of around 1170 individuals ultimately took the opportunity to make oral representations at hearings, with around a further 1050 attending without speaking.

Planning and Preparation

5. As noted above, there was a significant amount of ‘new’ planning and preparation work to undertake for public hearings, due to the differences from local inquiries. Practical difficulties arose due to the limited amount of time that was available between the introduction of the hearings aspects of the legislation (at a very late stage in the passage of the Bill in February) and the commencement of the hearings themselves. Some early high-level policy decisions needed to be taken at April’s Commission meeting (and only confirmed following the special meeting with the parties in May), with more detailed and consequential policies being agreed at the June Commission meeting.
6. As a result, serious work on booking of public hearing venues could not commence until June. Whilst this work was then conducted efficiently, nonetheless in a number of cases

the Secretariat was unable to secure what may have been optimum venues (in terms of suitability and/or cost) in every location. In addition, we were only able to secure the appointment of a Public Hearings Co-ordinator to start in mid-August.

7. Finally, the limited time available between the enactment of the legislation and the hearings commencing meant that the procurement of the transcription service for the hearings was more rushed than we would have wished. Whilst even a perfect procurement process would not necessarily have resulted in a perfect service, we believe more time to refine the procurement would have helped minimise the risk inherent in the contract.

8. The Secretariat therefore recommends:

- a) Planning and preparation for public hearings – in particular taking key policy decisions as to number and location of hearings to allow venue bookings to begin - should commence ideally 12 months before the date of the first hearing;
- b) The process of procuring a transcription service for the hearings should begin early enough to allow sufficient time for a thorough and detailed procurement process; and
- c) An individual should continue to be recruited as a dedicated person co-ordinating hearings activity in the office throughout the hearings period.

Promoting awareness

9. The Commission took an early policy decision to focus its communications budget on generally promoting awareness of the review, rather than on activity specifically relating to the hearings. Accordingly, the specific locations and dates of public hearings were only publicised in the region-specific proposals reports themselves, on our own website, and via Twitter (other general promotional activity focused on directing people to our website or our proposals at the local public Places of Deposit).
10. We await the results of a formal evaluation of our communications activity over the initial consultation period, but informal feedback indicates that there was limited awareness specifically of the public hearings amongst the general public. Most of the individuals attending the hearings seemed to be affiliated in some way with a political party, and the parties told us that most of their activists were unaware of the public hearings until they were actively approached by the party itself. That said, the political party representatives took the view that what promotional activity had been undertaken had been clear and accessible, and there was little more that could realistically be done whilst still representing value for money.
11. Of those from the general public who did attend, there were some references to very scant and/or late notice about the local hearing appearing in the local media. Short of expensive advertising, the BCE obviously has no direct influence over the content of local media. However, targeted letters to editors of local newspapers and/or limited poster campaigns in the city or town hosting a public hearing may be worth considering for a future review (budget permitting), particularly as the significant majority of hearing attendees came from the locality. That said, whilst this may help to raise awareness, there will obviously be a resource cost to this in terms of both time and money, it may not necessarily improve

attendance figures, if one of the main contributors to that is - as noted below – a lack of controversy in the proposals for the locality of that venue.

12. A particular issue that arose in a small number of instances was where a hearing was closed earlier than advertised (see discussion below relating the hearing times), but an unregistered individual subsequently arrived at the venue expecting to be able to speak. As it is within the discretion of the Chair of the hearing to close it early, this would suggest that there is a need to make clearer the potential for this to happen anywhere where the hearing times are published.

13. The Secretariat therefore recommends:

- a) The adoption of similar no or low-cost promotional activity specific to public hearings, and the consideration (if budget and planning time is sufficient) of additional targeted letters to local press editors, and (possibly) localised poster campaigns; and
- b) Increased clarity of the potential for a hearing to be closed early (possibly even after one day) should be included as part of any published hearing timings.

The booking system and timings

14. The feedback we received suggested that having a booking system, and making available the opportunity to speak outside of normal working hours were the right approaches in principle. Busy individuals (e.g. MPs and Councillors) in particular found it helpful to be able to agree in advance a specific time to speak.
15. However, the implementation could benefit from some adaptations. Whilst 30-40 minutes for a ‘qualifying party’ speaking slot at a lead hearing was about right, the majority of people spoke for considerably less than the 15 minute standard speaking slot. Whilst this did allow plenty of ‘walk-in’ speakers to be accommodated, it also often resulted in large gaps opening up in the timetable in many places. The request for individuals to arrive 45 minutes before their allocated speaking slot was also excessive in practice.
16. Those registering to speak were encouraged to provide a synopsis of what they planned to say, to give the Chair an idea of how long they would need to speak for, and the opportunity – if necessary to try and group together individuals who were seeking to make identical points. In the event, whilst the main political parties offered synopses for their lead hearing representations, only 9% of speakers overall submitted a synopsis in advance.
17. The Chairs also generally had a preference to try and ‘bunch’ speakers together if the day was not fully booked, so as to try and develop a sense of ‘momentum’, rather than have isolated individual speakers scattered throughout the day.
18. With regard to the evening sessions, whilst the principle was felt to be right, in order to accommodate full-time workers, the late afternoon and evening sessions were also the least well-attended. In addition, the day did end up being a very long one, both for the Assistant Commissioner required to concentrate for the whole day on what is being said, and also for the Secretariat and support staff, who begin setting up the venue from 8am.

19. Although the hearings were generally poorly attended, managing the booking service in the office quickly became unrealistic for the Public Hearing Co-ordinator to deal with alone, and at least one other individual had to be diverted from regular duties to support him in this aspect.
20. Finally, there were some individuals who claimed to have used the online booking system, and subsequently attended a hearing, but we could find no record of their booking, suggesting that there may have been problems with that system. In practice, the online booking system also did not reduce the administrative burden of the booking process. However, on the positive side, around 1,000 people successfully used the online system to register to speak.

21. The Secretariat therefore recommends:

- a) Speakers other than qualifying parties at a lead hearing should be allocated in multiples to a defined time 'session', but crucially allocated in no fixed order, so would be advised that they should expect to be called to speak 'at some point within that session', and that they should aim to speak for no longer than ten minutes. This allows for greater flexibility, whilst retaining a reasonably strong degree of clarity about when an individual will be speaking (the balance between these two factors would need to be assessed in determining the actual length of a session to which people are allocated in the detailed final policy);
- b) The Secretariat should continue to request a synopsis from registered speakers;
- c) If the hearings remain two days in length, the first day should either start after lunchtime and finish at 8pm, or run 9am-5pm then have a window 7pm-8pm to accommodate speakers unable to attend during the day on an exceptional basis.
- d) The facility to make a booking requests via our website should probably remain, given the relative popularity of this facility, but a longer period should be allowed for proper defining, implementing and testing before the system goes live.

Locations and venue suitability

22. There was some concern expressed about the particular towns and cities selected for the hearings. One facet of this is that there is an element of prestige associated with hosting a BCE hearing, and at least one city has expressed concern that despite being a major city in their region, they were not chosen as the location for a hearing. Ultimately, with a statutory limit of between two and five hearings per region, it is always going to be likely that some cities and major towns will be disappointed if they hope to host a hearing.
23. Also in relation to hearing location, in some cases (e.g. Sheffield and Reading) there was a feeling that the particularly low attendance figures in these locations reflected the fact that there was very limited (if any) disagreement with our initial proposals for that part of the region. In the case of Ludlow, the suggestion was even made that the BCE had chosen the venue deliberately to avoid holding a hearing in the relatively much more contentious Telford in the same sub-region.

24. However, there is limited scope to address this: as the legislation obliges the BCE to hold hearings during specified weeks wholly contained within the overall initial consultation period, unlike with the old local inquiry process it is not possible to wait for the results of the consultation to identify the controversial areas before choosing where to go, and we would advise strongly against trying to pre-empt where controversy will be highest.
25. Concerns were also raised about the siting of some of the venues, i.e. whether it was better to use venues central to a conurbation or somewhat 'out of town'. Central venues tended to be better served by public transport, whilst out of town venues were felt to be more accessible for those coming from out of town with their own transport.
26. The BCE ended up using a mix of local authority venues and hotel conference rooms, with each offering positives and negatives. Local authority venues often provided a greater sense of 'gravitas', and had substantial fixed desk space and PA systems, and as a venue may be more known to local people, but local admin and/or technical support was often limited (particularly in the evening sessions). Hotels were generally more customer-focused and had staff readily available to help at all times, with generally more modern facilities and car parking more readily available (particularly out of town, which local authorities tended not to be), but acoustics were sometimes not good, and there is the risk of disturbance from other functions taking place at the same time.

27. The Secretariat therefore recommends:

- a) If the Commission wish to reduce the resource commitment to public hearings in light of the generally low attendance, consideration be given to reducing the length of some hearings to one day, rather than reducing the number of hearings.
- b) Locations should continue to be selected on the basis of accessibility within – and a reasonably even spread across - a region, rather than on a prediction of likely controversy in an area;
- c) A specific venue within an area should only be booked if it can be confirmed that there is reasonably good accessibility to it by public transport (preferably multiple types and routes); and
- d) There should be no general policy to select local authority venues over private sector conferencing venues, but individual venue booking should rely primarily on the specific site visit by the Public Hearing Co-ordinator to check fitness for purpose.

Lead Hearings

28. This concept has seemingly been a success, with the parties saying that it did provide them with a useful platform at which to 'set out their stall' for the region as a whole, whilst not detracting from people's ability to talk about the locality of each hearing. The main representative of the Conservative Party in particular had expressed reservations about the idea beforehand, but was happy to say that his concerns had not been borne out in practice. The Labour Party had always been very supportive of the idea, and the Liberal Democrats seemed to find it useful to be able to focus their resources on the lead hearing.

29. The Assistant Commissioners also seemed to find it helpful to receive an overall picture from the main parties. Having gained a good understanding of these at the beginning of the lead hearing, they were then able to check the extent to which subsequent individual speakers throughout a region were expressing support for the counter-proposals of one of the main parties.
30. The lead hearings also seemed to generate most (though not all) of the media attention, and therefore seemed to be successful in having provided a focus for that, even if that did not then seem to generate much in the way of momentum for subsequent hearings in the region.
- 31. The Secretariat therefore recommends the concept of the lead hearing be maintained in the future.**

Assistant Commissioners

32. Feedback on how effectively the Assistant Commissioners chaired the hearings has been generally positive, as regards their independence (whilst remaining willing to consult and listen to advice from Secretariat staff), efficiency, courtesy, and seeking to put nervous individuals at their ease.
33. Some informal feedback has highlighted what could be seen as an inconsistent approach to dealing with questions, with some Assistant Commissioners taking a very relaxed interpretation of what was clarification and what was ‘cross-examination’ of a speaker, whilst others were very quick to close down what they perceived as cross-examination, or discussion of other individuals’ counter-proposals. Additionally, the staff noted that the requirement for speakers and questioners to all give their name and address was frequently not picked up on by the Chairs. To a large degree, as both the Secretariat and Assistant Commissioners were getting to grips with and learning a new process, there was always likely to be some degree of difference in delivery by different individual Assistant Commissioners, but the fact that it has been highlighted indicates that it is something that should be specifically looked at for the future.
- 34. The Secretariat therefore recommends** that the induction training for Assistant Commissioners contains a dedicated element for the lead Assistant Commissioners (and any others known to be expected to chair a hearing), on dealing with the need for consistency in the application of the guidelines relating to questioning of speakers and giving of names and addresses by speakers and questioners.

Staffing and administration

35. As noted above, the administration of the hearings has received generally very positive feedback from participants, facilitated by a daily conference call between the ‘on-site’ teams at the hearings and the Public Hearing Co-ordinator, to share on an ongoing basis issues, solutions, good practice, and general information about what was happening elsewhere. Nevertheless, there are areas in which we believe there is still room for improvement.
36. The standard Secretariat ‘team’ for a hearing was four: one senior manager to support the Assistant Commissioner directly throughout (and be the lead representative of the BCE

itself for media etc); the relevant review team officer or manager for the region as a technical expert on our proposals in the region (and also a useful ‘information shuttle’ between the registration desk and the top table); and two admin support staff to run the registration desk, handle ad hoc administrative and logistical issues, and run the ‘roving’ microphone to questioners. In very quiet hearings, some staff were released early. This worked well, and we would suggest is the right approach for all hearings. Although more staff were present at lead hearings, this generally seemed to be excessive in practice.

37. There was some practical difficulty in places ensuring that materials used - and referred to - by speakers were all collected in.

38. The Secretariat therefore recommends:

- a) A standard staff team for a hearing (including a lead hearing) should be four, consisting of one senior manager (that may be the Secretary to the Commission), the relevant review team officer or manager for that region, and two admin support staff;
- b) A standard system for ensuring associated documents are collected in from speakers should be developed by the Secretariat before the next public hearings, and communicated clearly to speakers both in advance of and during the hearing.

Transcriptions

39. Having procured a service to produce a verbatim transcript, the BCE has subsequently had to manage the provider to produce the required quality. The equipment used appears to have been generally of a high technical standard, so the issue would seem to lie with the quality of in part the staff doing the recording at the hearings, but more so those transcribing the recordings and quality assuring the transcripts.

40. The Secretariat therefore recommends:

- a) Before each hearing commences, the on-site BCE staff need to ensure the on-site transcribers have a copy of the proposals report and associated map booklet for the relevant region, and are clear of the need to interrupt if their equipment is not picking up what is being said by anyone in the hearing; and
- b) The BCE Review Team Officer/Manager on-site should liaise directly with the on-site transcription recording staff, to ensure that place names particularly are accurately noted for the transcribers.

Conclusion

41. The Secretariat invites the Commission Members to approve (or otherwise) the recommendations presented above, and welcomes views on any other matters related to public hearings not addressed in this paper.

Written feedback on public hearings from Lead Assistant Commissioners

Judith Farbey QC (London)

I wanted to say immediately how much I benefitted from excellent staff support. I am aware that members of the public were impressed with the team and, from my own perspective, their support was key to the success of our hearings.

On the whole, I take the view that the public hearings in London were a successful reflection of the statutory intention. BCE staff had well-defined roles and demonstrated considerable skill in all public-facing activity. The relatively complex subject matter – oral representations against the background of statutory criteria – could easily have led to public frustrations. When issues did arise, BCE assistance was provided promptly and at an appropriate level of expertise. It was valuable to have SMT input from the BCE's specialist London team to assist those members of the public who raised questions of detail on the initial proposals.

A Labour Party representative commented informally that the BCE was the best part of the Government that he had come across. A number of people commented informally on the friendliness of staff when contacting the office.

Induction

The BCE induction session for the London ACs was useful preparation for the PHs. The meeting of Lead ACs with the Commissioners was valuable and I found myself referring to my notes of the meeting during the course of the PHs.

Guidance

In my view, the BCE got the right balance between providing guidance to Lead ACs and allowing/enabling us to use our statutory discretion in matters concerning the hearings.

Timetabling

The popularity of the London hearings increased as time went by. The first two hearings (Kensington and Brent) did not attract large numbers of speakers. By contrast, Lewisham, Newham and Wandsworth attracted many more speakers, including a substantial number of late bookers and walk-ons. I took the view that the hearings benefitted from bunching speakers together. By taking a raft of speakers at a time, people were able to see and hear others before them, thereby learning the ropes. A flow of speakers also increased the numbers in the audience, leading to more questions from the floor and a general momentum that (I believe) made the hearings more interesting for the public.

I asked the BCE to provide speaker slots that, if possible, bunched the speakers, while stressing that I would not wish any speakers to be prevented from attending and that ultimately the convenience of the speaker should prevail. In our attempts to achieve this and to deal with continuous developments in the timetable, we needed to be in touch with the BCE office several times a day. The office emailed me during the day with updates and speaker synopses. I used the quiet periods, when no speakers were available, to contact the office about the following day's hearing. For me, therefore, the ability to get through speedily to the right person in the office by phone and email was very important and indeed became a key element of staff support.

I understand that there was an overflow list at Wandsworth and that some speakers (late booking) could not be slotted into the timetable. I would have been happy to take them after 5pm on Day 2 by extending the hearing for this purpose.

Lead hearing

It was not particularly illuminating to hear the qualifying parties read out their representations at the lead hearing, but I cannot see any other way of ensuring that they have an opportunity to comment orally on London as a whole. In terms of oral as opposed to written representations, it was more useful for me when the parties spoke about sub-regional issues at the appropriate hearing in the sub-region. The parties' sub-regional presentations combined a general overview with detail that was helpful. The information was easier to absorb in the context of a hearing where other speakers were also talking about the same or similar issues.

Number of hearings, location

I think that it was correct to hold five hearings in London. On balance, I think it was correct to have a timetable of 11am - 8pm on Day 1 and 9am – 5pm on Day 2. Evening slots were not popular but I think it was right to allow for the possibility that some speakers might only be able to attend after working hours.

I was concerned at one stage that the London hearings were located too centrally, thus inhibiting attendance by residents of the outer suburbs particularly in South London. However, the Wandsworth hearing did attract suburban speakers from South London. It is probably just as important to hold South London hearings in places that are located on core/busy rail lines as to push a hearing into the suburbs but the BCE may wish to consider how the location of future hearings can be optimised.

Facilities

It was in my view appropriate in London to use town halls as being well-signed, accessible, public buildings. We experienced some problems with the microphones at Wandsworth where the Victorian woodwork seemed to pose obstacles to an effective PA system. We tried our best to press the staff at Wandsworth to sort things out, but we did not receive as much help as I would have liked. I received one complaint from a couple of members of the public that they had been unable to hear a speaker. The problem was eventually resolved but too late for my liking.

I am aware of only one other complaint about facilities, from Andy Slaughter MP (Lab) who complained that he was not provided with a lectern in Brent. Mr Slaughter was informed that Brent did not own a lectern.

At Brent, we were not provided with a private break-out space. Our room was more like a lobby and had glass doors. It was therefore hard to get out of the public gaze when planning, discussing problems, having lunch etc.

Any other problems were in my view minor teething problems that were resolved as we all found our feet under a new system.

Len Jackson (Eastern)

I have nothing but praise for the BC teams I have worked with. They have been professional, courteous and great fun!

On the hearings themselves - I question their usefulness given that we will be giving equal weight to written submissions and that we did not allow "debate" or any questions that went to motive for making proposals.

As far as admin goes there are a couple of points:-

- I do think that having Lead ACs Chair in their own regions where possible would help, both in terms of local knowledge and cost.

- Where Hearings cannot be held in public buildings then the staff and AC should stay in the same hotel as the one used for the hearing. Saving a few pounds by working from one hotel and staying in another is false economy.

Clive Lewis (North East)

First, many thanks to you and all your staff for all your assistance before and throughout the hearing. I could not have wished for a better, more willing or more effective team. I really enjoyed working with you all.

Having chaired four days of hearings, may I say first, from an Assistant Commissioner's point of view, that I found these were really very useful – far more so than I had imagined. They enabled me to get a better understanding of the proposals and what the objections were, what issues arose – and sometimes, what possible solutions to problems and possible recommendations for revision existed that I might not otherwise have appreciated. Secondly, I would hope that some at least of those who spoke will now have greater confidence in the process than they might otherwise have had. I am definitely in favour of continuing public hearings broadly along the lines done in Newcastle and Darlington.

In terms of practical points, I think the concept of a lead hearing with the political parties giving their overall views a useful one.

During the four days, the parties' views altered in the light of discussions – and in some substantial respects there was ultimately agreement rather than disagreement over particular proposed constituencies. That was a helpful development. There may be some scope for offering parties the opportunity towards the end of the hearing to indicate any qualifications to their earlier views or at least inviting them to do that by way of written representations.

The number of hearings in the north east – two – seemed to me to be correct. The amount of time per speaker (not the parties) – 15 minutes - was longer than necessary for most speakers. It may be that a shorter time – 10 minutes – with a discretion to extend would be preferable. That may assist in reducing the waiting time. Each hearing could probably have been condensed into 1 and ½ days.

On venues, the “feel” of the two hearings was different. The second hearing, in Darlington, involved a smaller setting, with a room at one level. That seemed to generate a greater degree of discussion and questioning – almost a seminar feel. That contrasted with the Newcastle

hearing where the chamber was large and formal, and tended to be a forum for set speeches. On balance, I preferred the hearing at Darlington.

On disability access, there was a request for a loop system for a person with hearing difficulties at the Darlington hearing. No such system was available. If at all possible, it would be preferable to have hearings where such a system could be made available.