

BCFE (08) 17th Meeting

Minutes of meeting held on Thursday 18 December 2008 at
Trevelyan House, 30 Great Peter Street, London SW1P
2HW

Present:

Max Caller CBE (Chair)
Robin Gray
Joan Jones CBE
Dr Peter Knight CBE DL
Professor Ron Johnston
Jane Earl
Professor Colin Mellors

Also present:

Archie Gall	Director
Andrew Scallan	Director, Electoral Administration and Boundaries
Gareth Nicholson	Media Relations Officer
Elizabeth Morrow	Senior Lawyer
Graham Essex-Crosby	Local Government Adviser
Sam Hartley	Review Manager
Alison Wildig	Review Manager
Richard Buck	Review Manager
William Morrison	Review Officer (Norfolk)
Kalim Anwer	Review Officer (Suffolk)
Tim Bowden	Review Officer (Devon)
Megan Bayford	Review Assistant

1. Minutes

- 1.1 Consideration of the minutes of the Committee's meetings on 11/12 and 19/20 November were deferred until the 14 January 2009 meeting.

2. Matters arising

- 2.1 There were no matters arising not on the agenda.

3. Structural reviews – extension of timetable and new guidance – BCFE (08) 52

- 3.1 The Director updated the Committee on the situation surrounding the Secretary of State's extension of the deadline for final advice and her new guidance to the Committee about the treatment of "in aggregate" in relation to the affordability criterion. He advised that any decision by the Committee on the new guidance might be premature in light of the East Devon Judicial Review, which would be heard the following day (19 December). One of East Devon's grounds for challenge related to the Committee approach to the affordability criterion.

- 3.2 In discussion of the new guidance, the following main points were made:

- the timing of the Secretary of State's new guidance at this late stage in the review process was extremely unfortunate. The Department had been clear from the start of the review of the Committee's intended approach to the affordability criterion;
- there was a perception, certainly by some external commentators, that the new guidance could be regarded as political interference in the Committee's approach to the reviews and a desire to influence its conclusions;
- affordability was a key criterion but assessing the criterion "in aggregate" might not on its own affect the Committee's conclusions;
- a particular concern was that, unlike the original guidance, there had been no prior consultation with the Committee over the new guidance, or even any advance warning that it would be issued;
- release of new guidance;
- the importance of the new guidance was arguable, since the Committee was not required to follow it slavishly; and
- to halt the process now could damage the Committee and the Electoral Commission's reputations, and would be a waste of the resources and hard work undertaken by local stakeholders in the three counties.

- 3.3 The Committee agreed to note the new guidance but to take no decisions on its approach to it until the outcome of the judicial review had been determined. However, the Committee's independent financial consultants should in the meantime be asked to undertake a re-appraisal of their report to the Committee, following the "in aggregate" approach set out in the Secretary of State's new guidance.

4.0 Electoral reviews update – BCFE (08) 54

- 4.1 The Review Manager highlighted issues arising out of the Durham and Northumberland electoral reviews and the latest position on the respective county council's agreement of what council size to propose to the Committee.
- 4.2 The Committee noted that at the 6 October 2008 meeting it had been minded, on the basis of the information provided by Northumberland County Council, to adopt a council size of 67 members unless there was compelling new evidence supporting the council's official preference for a 79 member council. The Committee remained of the view that further evidence was required prior to it making a recommendation and asked that the Director write to the authority outlining the Committee's views on the matter.
- 4.3 The Chair said that the meeting he, Professor Mellors and Jane Earl had attended at Durham County Council had been productive and that the authority had indicated it would be in a position to provide substantive evidence in January. The Committee expressed a desire to make a recommendation on council size for both authorities at its meeting in February and asked that officers provide an update report for that meeting.
- 4.4 The Committee asked for an update report on its work programme for the coming financial year in February. It noted that further consideration would need to be given to the criteria for an administrative boundary review before this type of review was undertaken by the Committee.

5.0 Cornwall electoral review parishing arrangements – BCFE (08) 55

- 5.1 The Review Manager presented a paper on the Cornwall electoral review.
- 5.2 The Committee confirmed its previous agreement in correspondence of the parish electoral arrangements for Cornwall.

6.0 Cornwall electoral review – response to CLG – BCFE (08) 56

- 6.1 The Review Manager presented a paper on the Committee's advice to the Electoral Commission regarding the implementation of any new electoral arrangements in Cornwall in 2009. The Minister for Local Government had written to the Commission seeking its views on the likelihood of both the Committee and the Commission completing their respective roles in time for elections in October 2009.

- 6.2 The Director confirmed that the Commission had asked the Committee for its advice regarding timetables and possible implementation of the Cornwall review. In discussion, the Committee agreed that, at this time, there was no reason to doubt that it would report to the Commission by 26 May 2009 as envisaged, but implementation was a matter for the Commission to determine.
- 6.3 The Committee strongly rejected CLG's option of electoral arrangements for Cornwall being imposed by the Secretary of State based on 123 councillors and the existing county divisions. It also had concerns over the Secretary of State imposing electoral arrangements for elections in June, based on the Committee's draft recommendations. Equally, it was noted that the consequence of the Secretary of State not delaying the election to October, and accepting the Committee's concerns over her implementing electoral arrangements, would be elections in June based on the existing county council electoral arrangements (including the existing council size of 82). It was agreed that the Director would write to the Chief Executive of the Electoral Commission with the Committee's views on this issue.

7.0 Report on Local Democracy Economic Development and Construction Bill – BCFE (08) 57

- 7.1 The Review Manager presented a paper on the LDEDC Bill which makes provision for the establishment an independent Boundary Committee for England. The Bill had been introduced to Parliament earlier in December.
- 7.2 The Committee endorsed the concerns set out in the draft letter to CLG, (agreed to be sent from Andrew Scallan to Paul Rowsell) whilst welcoming the principle of separation from the Commission.
- 7.3 In discussion the following main points were made:
- The differing methods proposed for the appointment of, respectively, the chair, deputy chair and members were novel and did not seem appropriate. The involvement of the Secretary of State in the appointment processes was particularly unwelcome;
 - The name of the new body should not be 'Boundary Committee' as it will not be a committee of any other organisation. 'Local government boundary commission' was identified as a possible alternative.
 - The making of electoral change Orders through Parliament could have a number of unwelcome consequences. It seemed unlikely that a member of the Speaker's Committee would be in a position, even if they wished to do so, to respond in detail to any debate on Boundary Committee Orders. Additionally, any debate secured could potentially overturn legitimate proposals which would then

have to be changed (potentially involving a further review) before any new Order could be brought before Parliament;

- Potential alternatives to the Parliamentary process set out in the Bill included:
 - Orders being made by the Boundary Committee itself;
 - a sub committee of the Boundary Committee;
 - an independent body (similar in independence to the Electoral Commission);
 - a Lords Committee;
 - the involvement of regional select committees;

- The issue of scrutinising final proposals and representations on them needed to be clarified. The arrangements outlined in the Bill did not provide for a period in which further representations can be considered, in the way the Commission currently considers representations. This role would not be to question judgements made but to ensure the processes had been undertaken correctly and to take into account any new representations.
- It would not be reasonable for there to be a lengthy transitional period between Royal Assent and the new Boundary Committee being established. The current proposal would remove the Commission's responsibilities for implementing electoral arrangements, yet the Boundary Committee would still remain a statutory committee of the Commission
- The name of the new body was inappropriate given that the Boundary Committee would be a corporate body in its own right, not a committee of such a body. Consideration should be given to a name that would reflect the new role, such as the Local Government Boundary Commission for England.

7.4 The Chair and officers would continue to lobby and report back to the Committee, as appropriate.

8.0 Any other business

8.1 The Committee agreed that paper BCFE (08) 53 would be deferred to its next meeting.

8.2 The Chair and Committee members expressed their appreciation and gratitude for the work of Robin Gray, who was retiring from the Committee after six years, and wished him well for the future. Robin Gray paid tribute to the hard work of the staff, both present and past.

January 2009