

## **GUIDANCE FROM THE SECRETARY OF STATE**

### **Introduction**

1. On 6 February 2008, the Secretary of State requested advice from the Boundary Committee on certain matters relating to the unitary proposals from Exeter City Council, Ipswich Borough Council and Norwich City Council. Section 5 of the Local Government and Public Involvement in Health Act 2007 (“the 2007 Act”) provides that the Boundary Committee may provide the advice requested. Where it provides that advice, the Committee may also recommend whether or not the Secretary of State should implement the original proposal, and may make to her an alternative proposal for a single tier of local government for an area that includes the whole or part of the county for which the authority making the original proposal is either the council or the council of a district in that county.
2. Section 6(2) of the 2007 Act requires the Committee, in making a recommendation or alternative proposal, to have regard to any guidance from the Secretary of State about the exercise of the Boundary Committee’s functions under section 5 of the 2007 Act. The Secretary of State issued a first set of guidance on 6 February 2008 (as Annex B to her request). That guidance set out certain aspects of the approach the Committee should follow in making the assessments and judgements that may be necessary for it to make any alternative proposal to the Secretary of State. This further guidance is to clarify the approach the Committee should follow in making such assessments and judgements against the criteria included in the Secretary of State’s request.

### **The criteria in the request**

3. The Secretary of State’s request of 6 February 2008 asked whether there could be alternative proposals for a single tier of local government, and if so on what basis, for Exeter, Ipswich and Norwich and the whole or part of

the surrounding county areas, which would in aggregate have the capacity, if they were to be implemented, to deliver the outcomes specified by the five criteria set out in Annex A to the request.

4. The Secretary of State included the term 'in aggregate' in the request to make clear that any alternative proposals for unitary local government must have the capacity to meet the five criteria across the specified area. However, it is not clear to the Secretary of State from the financial information published by the Boundary Committee on 21 November 2008 that the Committee is approaching the assessment of alternative proposals on this basis. The Secretary of State has therefore decided that it would be helpful to the Boundary Committee to provide additional guidance as to the approach that the Secretary of State was seeking through the use of the term "in aggregate".

#### **Guidance from the Secretary of State**

5. The assessment of a proposed unitary solution's capacity "in aggregate" to deliver the outcomes specified by the criteria will be relevant where that solution consists of two or more proposals that there should be a single tier of local government for an area (and that are not alternatives to one another) (i.e. an alternative proposal within the meaning of section 5(5)(b) of the 2007 Act).
6. The term "in aggregate" applies in particular to the affordability of any alternative proposal. It might of course also be applicable to the other criterion which relates to the transition from two tier to single tier local government, namely, the broad cross section of support criterion. For example, if there was very strong support in one part of an area for it to become unitary, minority support for a unitary authority for the remaining area might be considered sufficient.
7. In relation to the assessment of affordability, if the Boundary Committee identifies a possible unitary solution of the type described in paragraph 5, it

should assess the capacity of that unitary solution as a package to meet the criteria, rather than assessing the capacity of each of the two or more proposed new unitary authorities separately. For example, if the Boundary Committee was contemplating a unitary solution which consisted of splitting an existing county (County X) into two new single tier areas (Area A and Area B), the assessment to be made against the affordability criterion would be whether Areas A and B, when taken together, met the affordability criterion.

8. Such an assessment would require the transitional costs associated with the creation of each proposed new unitary authority to be aggregated, and for the purposes of assessment against the criteria, compared with the aggregate of the savings that would result in each of the areas. Furthermore, for the purposes of this assessment, any consideration of the need to fund costs by reserves and of the availability of reserves, should be approached in aggregate without seeking some apportionment between the two or more areas.
9. In this way, by the effective pooling of costs, savings and reserves across a specified area (the area of County X in the example), it may be possible to deliver unitary solutions for that specified area that offer benefits to local communities which would not be available if the matter was approached on the basis of looking only at parts of the specified area in a wholly discrete manner. Hence, in the example, whilst Area A might not on its own be affordable, because it is not able to cover the transitional costs associated with that area with its own reserves, it might be affordable if the reserves for the whole county area are pooled and then apportioned on a basis which meets the transitional costs in both Areas A and B. It is for this reason that in the request, the Secretary of State included the term “in aggregate”.
10. When responding to the request from the Secretary of State for advice and in making an alternative proposal to her (if any), the Boundary Committee may wish to provide details of the methodology which it used in making

that alternative proposal, including to give effect to the “in aggregate” approach sought in the request and about which this guidance is given.

5 December 2008