

Draft as at 12 October 2004

Minutes of the meeting of the Electoral Commission held on 30 September 2004 in London

Present: Sam Younger (SY) (Chair)
Pamela Gordon (PG)
Glyn Mathias (GM)
Sir Neil McIntosh (NM)
Karamjit Singh (KS)

In attendance: Roger Creedon (RC)
Jacqui Dixon (JD)
Roger Gough (RG)
Nicole Smith (NS)
Chris Welford (CW)
Kate Sullivan (KBS)
Doug Stewart (DS)
Ben Marshall (BM)
Tom Hawthorn (TH)
Ros Baston (RB)
Steve Evison (SE)
Shane Beadle (SB)
Dave Mahon (DM)
Tim Kershaw (TK)
Heather Gentry (HG)
Sarah Johnstone (SJ)
Paul Kingsley (PK)

Implementation Team: Ann Devine (AD) (for items 1 –4 only)
Tim Atkinson (TA) (for items 1 – 4 only)

PG, SE, SB and DM left the meeting whilst decisions were taken on items 1 – 4.

1. Periodic electoral review: county of Essex

- 1.1 SY advised that the Boundary Committee had agreed to a modification of its final recommendations, to include Thorrington parish in the proposed Brightlingsea division. PG indicated that the Boundary Committee were persuaded by the evidence submitted in the further representations.
- 1.2 **The Commissioners agree to accept the recommendations of the Boundary Committee, with modifications to the names of**

proposed electoral divisions as set out in the report considered on 12 August 2004, and with the additional modification to include Thorrington parish in the proposed Brightlingsea division.

2. Periodic electoral review: county of Warwickshire

- 2.1 SY stated that the Boundary Committee remains of the view that the proposed two-member division of Arbury and Stockingford best reflects the statutory criteria, and therefore did not wish to change the final recommendations.
- 2.2 **The Commissioners agree to accept the Boundary Committee's final recommendations, with a modification to the proposed name of one electoral division as set out in paragraph 24 of the Implementation Team's original report.**

3. Periodic electoral review: county of Wiltshire

- 3.1 SY advised that the Boundary Committee had considered the County Council's proposals for single-member divisions. The Committee highlighted that these proposals would result in high levels of variance, reduced levels of coterminosity, and unite areas with no direct links. The Boundary Committee's final recommendations provided a better balance between the statutory criteria.
- 3.2 **The Commissioners agreed to accept all the Boundary Committee's recommendations.**

4. Periodic electoral review: county of Surrey

- 4.1 AD advised that due to an oversight, a modification agreed by the staff of the Boundary Committee had not been included in the Implementation Team's report considered by Commissioners on 12 August 2004. The modification would realign the boundary between Guildford West and Guildford South-West divisions, so that all the properties in Scholars Walk would be in one division. The staff of the Boundary Committee were content with the modification.
- 4.2 **The Commissioners agreed to accept the modification.**

5. PID: periodic electoral review evaluation project

- 5.1 SJ presented the report, which set out the proposals for the evaluation of the PER process. PG stated that the PID had been considered by the Boundary Committee, and reflected the Committee's comments.

5.2 Commissioners drew attention to the following issues which should be addressed:

- The need to be more explicit in addressing the statutory criteria, especially balance between the statutory criteria and the weight given the community identity
- The need to encourage the Government and the ODPM Select Committee to look again at the statutory criteria
- The timetable which may place the consultation period in the middle of a General Election campaign
- The plans for consultation and communication
- The links between the reviews of the PER process and of taking over the parliamentary boundary reviews
- The composition of the project board, and the need to involve the Deputy Commissioners
- The impact of section 71 of the Race Relations Act

5.3 PG agreed that a Select Committee review would be useful. The reviews of the PER process and of the parliamentary boundary functions needed to interact but this would be at relevant stages. It was suggested that a seminar would be useful to go through the issues.

5.4 The Commissioners approved the Project Initiation Document subject to the modifications discussed, and agreed that the project board should comprise SY, PG and one Deputy Commissioner.

6. PID: transfer of Parliamentary Boundary Commission functions to the Electoral Commission

6.1 TK presented the PID setting out the planning for the transfer of PBC functions to the Commission. Separate boundary committees would have to be established for Scotland, Wales and Northern Ireland and there was a planning assumption that the devolved offices would provide the secretariat and undertake the review process. The timing of the transfer was still unclear since it depended on completion of the current review but was likely to be 2006 for the Scotland, Wales and Northern Ireland, and 2007 for England.

6.2 The chairs of the boundary commissions must be Electoral Commissioners, and therefore more Commissioners may need to be appointed. The requirement for a High Court judge to be chair was expected to be revoked as part of the transfer order.

6.3 GM felt that the major risks had not been identified, and he and KS stated that the project had to accommodate the sensitivities of each country, and the views of the devolved administrations. NM suggested that the assemblies be asked if there was any change to their powers which they wished the Commission to consider as part of the project.

Of particular relevance was local government boundaries. Parliamentary and local reviews would be undertaken by the same body in England and that would provide advantages in terms of process and planning. On the present basis that would not be the case in the other nations. Commissioners recognised the benefits but also that the initiative to give both tasks to the Commission must rest with the devolved legislatures.

6.4 RC referred to the short timescale for the project as appointments could be needed early in 2005. NS referred to the role of the project board in steering the process; the Commission would make the decisions.

6.5 **The Commissioners agreed:**

- That the project should go ahead on the basis of the PID
- To establish a project board comprising the Electoral Commissioners and Mr Robin Gray, Deputy Commissioner, to be chaired by SY
- Not to actively seek local government electoral and/or boundary functions, unless invited to do so by the devolved legislatures

7. Elected Regional Assemblies and unitary authority reviews

7.1 SE presented the report, which set out the implications of conducting a review of electoral arrangements in the event of a 'Yes' vote in the North East regional referendum. The OPDM would direct the Commission to carry out the review, and draft guidance on the direction had been published for consultation,, comments on which were required by Tuesday of next week. The direction was due to be given to the Commission on 6 November, following the referendum. The ODPM cannot direct the Commission to undertake reviews of the electoral arrangements for the new unitary authorities; this is a matter for the Commission's discretion. However the Boundary Committee were strongly of the view that both reviews, assembly and unitary authority, should be undertaken at the same time.

7.2 The Government's aim was for elections to the new bodies to take place in May 2006. The Boundary Committee could complete the review of unitary authorities in the timescale, only if the reviews started by the end of 2004. However, doubt had been raised as to whether the Commission had the power to direct such a review of the unitary authorities in the circumstances following a referendum. The legal issues were being explored and it was hoped that a satisfactory way forward could be found. RZ stated there was a risk if the Commission anticipated Parliament in this matter. RC stated that the normal convention was that funds could be committed following the second reading of the Bill. This would signal Parliament's agreement in

principle to establishing the regional assembly which would be the trigger to establishing a unitary structure in the North East. Alternatively, if there was a legal difficulty, ODPM could be asked to include a clause in the Bill to deal with it. However, the timing of the parliamentary review process might not be compatible with conducting the local authority review alongside the regional assembly review.

- 7.3 The Commissioners agreed that it was not sensible to do a regional assembly review without unitary authority reviews; the local authorities and the public would not understand why they were being conducted on different timescales when the two processes were clearly linked. SE stated that he would like to start talking to local authority chief executives and LGA staff. SY stated that there was no reason why the Committee should not do so, but sensitivities in the run-up to the referendum had to be recognised. SE also referred to the impact on FERs.
- 7.4 **The Commissioners noted the implications of a review of an elected regional assembly and a simultaneous review of unitary authorities, and asked for the legal position to be clarified as a matter of urgency. The Commissioners agreed that the Boundary Committee could approach local authority and LGA staff on a contingency basis.**

8. Draft guidance on elected regional assembly reviews

- 8.1 HG presented the report which set out the Commission's draft response to the proposed guidance produced by ODPM to the Commission on the conduct of the review of the electoral arrangements for the proposed regional assembly.. HG added that once the direction had been received from the ODPM, the Commission will need to give guidance to the Boundary Committee. This was being prepared on the basis of the ODPM document and would be considered at the next Commission meeting.
- 8.2 PG and NM expressed concern about the proposed requirement to take into account councillor's workloads, and asked that the wording of the response be more emphatic on this point.
- 8.3 **The Commissioners noted the draft guidance from the ODPM, and approved the draft response, subject to the amendments discussed.**

9. Financial report

- 9.1 RG presented the financial report for the year ended 31 March 2004, and for the quarter ending 30 June 2004. There was an underspend for the year 2003/4 of £5m. The audit was almost completed. NM stated that there were no significant matters of concern arising from the audit.

9.2 RG stated that he anticipated being within budget at the end of 2004/5. There was a thorough six-month review of expenditure being undertaken. The underspend on referendums was ring-fenced; about two-thirds would be unspent.

9.3 **The Commissioners noted the reports, and noted that there would be further discussion at the meeting at the end of October.**

10. Parliamentary liaison procedure

10.1 NS presented the report. Information needed to flow in a more formal way, whilst making the process less onerous for staff. Commissioners were asked to consider whether notes of meetings of relevant meetings would be required; there was a need to know that a meeting or conversation had taken place. Commissioners should be able to access the database.

10.2 **The Commissioners approved the procedure, subject to the modifications discussed.**

11. Constitution for Europe (Referendum) Bill – intelligibility of referendum question

11.1 DS presented the report, which set out the process concerning the private members bill, and proposed a draft statement. There was likely to be a Government-sponsored bill in the Queen's Speech.

11.2 The Commissioners agreed that it was preferable to use of the word 'approve' instead of 'ratify' in the proposed question. The preamble was in their view potentially misleading, and as drafted, did not add anything to understanding.

11.3 The Commissioners asked for amendments to paragraphs 10, 11 and 12 of the response, and agreed that, after final approval by SY) copies of the response should be provided to party spokesman, the libraries of both Houses, and published on the Commission website.

11.4 **The Commissioners approved the draft response, subject to the amendments discusses, and authorised SY to approve the final version.**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

13. Alleged breaches of PPERA: UAF

13.1 CW presented the report, which outlined the current situation.

13.2 **The Commissioners noted the report.**

14. Alleged breaches of PPERA: UKIP

14.1 CW presented the report which outlined the current situation.

14.2 **The Commissioners noted the report, and requested that the media statement be amended in accordance with the discussion.**

15. Foundation model of voting

15.1 NS stated that the Commission was being asked question about the foundation model of voting, and presented FAQs with proposed answers. Commissioners were invited to comment by the end of Friday 1 October. NS also referred to the timetable and that fact that until someone was appointed to the relevant post, there was no capacity to undertake any work in this area.

15.2 KBS gave a presentation of the key issues concerning the foundation model for voting. The Commission's programme of work assumed that the Government would undertake consultation between March and September 2004. The key issues for the Commission were:

- Compatibility with an 'ordinary' vote
- Convenience for the voter

- Responsive to electors needs
- Choice
- Public confidence
- Maximum security, access and confidence
- The administrative costs should not drive the conclusions

15.3 The Commissioners took the view that the same components for voting should be available in every area, but the balance of provision would change depending on the area.

15.4 The Commissioners were invited to debate the potential components of a new voting model as an initial stage in the development process.

16. Designation

16.1 The Commissioners noted that a letter had been received from the English Democrats, querying the Commission's decision on designation.

17. Disapplication of PPERA, Part IV

17.1 SY stated that a letter had been received from John Spellar at the NIO, concerning the Government's proposals for donation controls in Northern Ireland. The Commissioners discussed the proposals and agreed that SY should write to the Minister.

17.2 **The Commissioners requested RC to draft a response for approval by SY.**