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Date: 24th September 2008

Review Manager,
(Devon Review),
Boundary Committee for England,
Trevelyan House,
Great Peter Street,
London. SW1P 2HW

Dear Sir,

LOCAL GOVERNMENT REVIEW OF DEVON

In your draft proposal for unitary local government in Devon (July 2008) you invited views to be submitted to you by 26th September 2008.

North Devon Council considered the proposal and has concluded that it does not provide the optimum solution for Devon in that it fails to meet the criteria set down in the White Paper. In particular:

- a. There was strong evidence that the proposal for a single council covering all of Devon did not have a broad cross section of support from partners, the people of Northern Devon and stakeholders. *(Section 16 of our Submission).*
- b. That the proposal did not provide a model which was likely to produce effective and accountable leadership because of the impact of the size and the geography of the County on the lives of the communities in Devon. *(Section 17 of our Submission).*
- c. That the proposal did not provide a convincing case for improving neighbourhood flexibility and empowerment and ran the more significant risk of delivering remote and impersonal centralisation. *(Section 18 of our Submission).*
- d. That the proposal had not addressed the fundamental issue of value for money since it had not shown what the costs and benefits of a number of alternative options might be. It was, therefore, impossible to judge whether these options did present the best value for money. *(Section 19 of our Submission).*

The Council has grave concerns that the proposal, if implemented, could seriously disadvantage northern rural communities and lead to a significant democratic deficit.

24th September 2008

Review Manager (Devon Review),
Boundary Committee for England.

2 –

In drawing these conclusions, the Council has produced a detailed critique of the proposals and this is attached as part of this representation.

We would urge you to take note of all of the weight of representation you have received clearly expressing concern about the single unitary option (*section 16 of our Submission*). In addition, we note that even Torridge District Council, who initially supported the idea of a single unitary, have now expressed grave and fundamental concerns about how your proposal could work in practice (*section 12 of our Submission*).

It is important to remember that whilst the various original proposals differed in their specific form, there remained a fundamental common theme, namely that a single unitary was too large and that the solution had to be in forming more than one council to cover this vast rural area.

In putting forward your proposal you appear to have largely dismissed people's real concerns about the size and geography of Devon and have placed much emphasis on local community boards to remedy this potential democratic deficit. We have grave concerns about the viability of this element of the work which we have reflected throughout our Submission. In addition, we have attached (appendix A and B) papers to the Submission which highlight why the community boards do not meet even basic aspirations for community engagement and showing why they could never provide a solution to the proposed democratic deficit.

Finally, in making these comments we would reflect on the conclusions drawn by the Secretary of State in relation to two recently completed boundary reviews. In July 2007 a proposal for a single unitary in North Yorkshire (similar size, less people) was rejected. In reaching that conclusion, the Minister stated '*due to the large geographic areas involved, there are concerns that a county wide unitary may have difficulties effectively representing its electorate and would be seen as remote by most of its citizens.*'

The Minister repeated this position in Cheshire (less people and significantly smaller than Devon). '*A single unitary authority would be too big and there were risks that the authority would be seen as remote by local people and hence less able to deliver neighbourhood empowerment.*'

We have reviewed the submissions sent to you and have concluded that an overwhelming majority have expressed this concern, in keeping with the Secretary of State's thinking, that the proposal for a single unitary council covers too large an area and will result in a remote and impersonal bureaucracy which will undermine democratic credibility.

24th September 2008

Review Manager (Devon Review),
Boundary Committee for England.

3 –

As a Council we remain committed to modernisation and believe that there is potential to change. We submitted a proposal which divided Devon into two unitaries and also saw merit in a further three unitary model. Both of these options would have provided a solution to these concerns and we find it regrettable that you chose to dismiss them and remove them from the legitimate public consultation process without proper analysis or consideration.

As a viable alternative to these we believe a compromise could be reached using these models as the basis for enhancing the existing two tier model. Recognising that smaller district councils have difficulty remaining viable, reorganisation at this level could provide an answer which significantly improved efficiency and viability and reduced duplication but, at the same time, overcame the real fears people have about isolation and the democratic deficit.

Two initiatives have already progressed which could ultimately lead to North Devon and Torridge and similarly South Hams and West Devon councils combining. A simple extension to these projects could see the number of districts in Devon reduced from eight to four.

The current financial model for the county wide unitary assumes significant savings from combining district council services. It does not explicitly show significant savings from combining the district services with the county services. Logically then similar savings could be expected by simply combining a number of smaller district councils. Such a proposal would be easier to deliver, more understandable and significantly less disruptive than the option you have submitted for consultation.

We would contend that the enhanced two tier solution, outlined above, has the potential to achieve much if not more than your unitary proposal without the inherent dangers clearly identified by many stakeholders in relation to remoteness, disengagement and the democratic deficit.

Whilst we have made no comment regarding the specific issue of the Exeter sub-proposal, we can find neither logic nor merit in it.

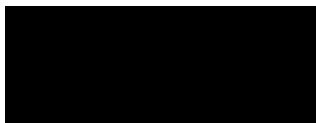
24th September 2008

Review Manager (Devon Review),
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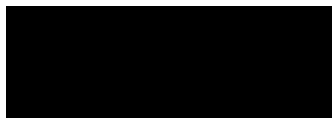
4 –

The Council would wish to thank you for the opportunity to engage in this debate and trust that there will be a continuing dialogue on this important issue.


Yours faithfully,



Councillor M. Harrison,
Leader of Council



Councillor M. Prowse,
Leader – Liberal Democrats



Councillor E. Ley,
Leader – Independents

Section 1. The Process

Summary: The process has not been sufficiently robust nor open and this gives rise to a lack of confidence in the findings and conclusions reached.

1. The process used to arrive at the proposal is a self-fulfilling prophecy. You have excluded all comparative debate and have given interested parties the opportunity to comment on a single pre-determined option. This is reflected in the tone and content of a large number of the submissions on your website.
2. Para 2.22 of the report says that you believe that the legislation allows only a single option to be put forward. However, that does not stop you from discussing the other options that were put to you, and your detailed reasons for their rejection. As you have failed to do this the result is that consultees, for the most part, are unable to make comparisons or have an informed debate on the merits, or otherwise, of your draft proposal.
3. There is no evidence in the report to show how or why conclusions were arrived at. You have stressed the need for evidence-based arguments to be put to you during the consultation phase of the process. In essence you are asking others to supply evidence to show that your conclusions could work in practice. Unfortunately, because your proposals are not workable this approach has not been successful.
4. There is a key assumption that the proposal you are now promoting will achieve value for money and offer the most cost effective and affordable solution. Unfortunately nobody can comment on this or challenge it because the process you have created means that none of the empirical data about the actual costs of the proposal will be available until after the period for representations has ended. Furthermore, none of the other proposals have been afforded any opportunity to provide detailed comparative costs because they were excluded them from consideration before the consultation or costing stage had been reached.
5. As a consequence your consultation is not based on all five criteria because the affordability criterion is entirely omitted. While section 6(4)(b) of the Local Government and Public Involvement in Health Act 2007 only requires you to "*take such steps as*" you "*consider sufficient to secure that persons who may be interested are informed*" it is totally inadequate to base consultation on partial information.
6. There is clear evidence of pre-judging the case since all of the evidence presented to support the single unitary case could be applied equally to other proposals submitted. It is therefore important to show to all what specific elements of the single unitary case made it the superior option over and above either an alternative unitary model or the status quo. Because this evaluation is missing all concerned individuals have been deprived of the ability to understand and comment on all of the relevant options.
7. While Boundary Committee members have significant amounts of experience in local government it is almost exclusively in more urbanised areas. Your lack of experience of rural local government is demonstrated by the mistaken stress you put on the largest conurbation in the review area, Exeter, being the driver of the whole economy of Devon. This is a misunderstanding of the nature of rural economies and the realities of transportation and communication links in large sparsely populated areas. The reality is that Exeter is a small cathedral city with little impact beyond its immediate hinterland.
8. The Boundary Committee Chairman has been repeatedly quoted in the media stressing the need for everyone to make submissions. One typical example of such a quote is:

*"We are publishing everything we receive on our website, so take a look at it as other responses we've had so far could spark off something that will help you put your views in writing."*¹

In addition the acknowledgement message given to those making an online submission says:

"We will take your views into account. A copy of your submission, and all other submissions we receive, will be made available for members of the public to view at our offices and will also be available for viewing on this website."

However, you are not publishing everything you receive on your website thereby failing to spark further submissions. Many submissions made before the consultation period have not been published, despite us notifying you of their absence. In addition the site has only been updated three times in the nine weeks since the 12 week consultation period started. Until the 28th August it was four weeks out of date – one third of the short consultation period. Following the latest update it is still 3 weeks out of date.

Furthermore, for significant parts of the consultation period your website has been password protected denying any consultee sight of documents that should be publicly available. This will have inevitably had the effect of reducing the probability of them contributing to the debate.

You have also taken the extraordinary step of collating such responses as are on your site into huge files (up to 12 Mb) that will take many users several hours to download and view. This is yet another deterrent to participation.

9. In fulfilling your statutory duty to take such steps as you consider sufficient to secure that persons who may be interested are informed you have held "listening events" in Exeter and Barnstaple. These were aimed at three broad groups of stakeholders, the voluntary sector, the business sector, and partnerships. This last group seems aimed at anyone that did not fit into the first two categories, for example, the PCT, Police Authority, and parts of secondary and tertiary education. However, in the six sessions you have held so far only some 40 individuals have attended. This is a frighteningly small body to use to test your proposal, particularly as a significant proportion was not well informed of the issues. There seems no reason to believe that the final event, planned for Tavistock, will be any different.

These events seem to have suffered some management difficulties. For example, the venue of the Barnstaple event was changed three days before the meeting. In addition we understand notes were not made of the points raised by the various speakers therefore it would be impossible for you to fulfil your statutory duty to "*take into account any representations made to them within that period*"².

10. The Boundary Committee Chairman was widely quoted dismissing petitions as not indicative of public sentiment or worthy of being given any weight in arriving at our judgement³. This directly contradicts the approach described to empowerment in the White Paper, "Strong and Prosperous Communities". As set out in the Government's response⁴ to the consultation on this:

¹ Eastern Daily Press, 7 August 2008

² Local Government and Public Involvement in Health Act 2007, section 6(5)(a)

³ LCG Local Government Chronicle, 17th and 24th July 2008

⁴

www.communities.gov.uk/localgovernment/strategies/strongprosperous/publications/policydocuments/guidancedocuments/statementsintent/

- 5. *“the Government has considered the consultation responses and will place a statutory duty on local authorities to respond to all local petitions, including electronic petitions”.*
- 6. *“the subject of the petition should relate to the functions of the local authority, or other public services for which the local authority has shared delivery responsibilities, through the Local Area Agreement or other partnership arrangement.”*

Whilst this would not cover the functions of the Boundary Committee it is entirely inconsistent for you to take such a contrary stance.

11. Shortly after your report was released a new White Paper was published. Clearly you will not have been able to adequately reflect any influence “Communities in Control – Real People, Real Power” might have had on your findings. This is described in Appendix A. In light of this new development your proposal for a single giant unitary with untested and unworkable community engagement arrangements [see 19a)] seems to be at odds with Government policy.

In terms of democratic representation the impact of the proposal would be to:

- reduce the number of Councillors in Devon by around three-quarters;
- move them further from their constituents, with only one to every 7,500 people;
- ensure no-one stood for election that could not afford a car, and the time for meetings in Exeter, which is up to two hours drive from some parts of the review area.

We are seriously concerned that the disabled, the fully employed, the elderly and the poor will find themselves excluded from participating as local councillors because of the need to make 100 mile plus round trip journeys with little or no access to public transport in our rural areas.

12. Even the single District Council that was split 50:50 and initially was, in principle, in favour of a single unitary option has rethought its position having considered your draft proposal. On 1st September it resolved:

"That this Council writes to the Secretary of State with copies to Prime Ministers Office and Boundary Commission stating this Council's complete and utter dismay and disgust concerning the way in which we as a Council have not been adequately consulted or informed in any type of a democratic method over the whole issue of Devon County Boundary Review. We find it incomprehensible to be expected to consider any type of improved structure for Torridge and Devon without fit and proper dialogue, plus key facts and figures of alternatives. Sharing of key information with all partners should be paramount not hidden and made to seem unimportant. As elected representatives by residents of Torridge District we are appalled by the dictatorial manner in which we as a Council have been and continue to be treated."

13. There is no equalities impact assessment on your proposals despite their significant effect. Indeed you do not appear to have followed your own equality schemes.
14. To date we are concerned that you have not been able to respond to a Freedom of Information Act request within the statutory 20 day time limit. This is something that Councils comply with as a matter of course.

Section 2. The Draft Proposal

Summary: We consider the draft proposal to be based only on assumptions and it suffers from a number of inconsistencies.

15. The report exhibits a number of inconsistencies and assertions based on unexplained assumptions without giving any evidence to show that they are valid. Examples include paras:

- a) 2.1. You describe what legislation says you must do, but it does not debar you from going further. You have assumed, without reason, that you could not undertake pre-review consultation.
- b) 2.7. This assumes that the short-term impact of preparing full cases outweighs the long-term damage of a flawed local government structure. You have assumed that a temporary inconvenience would outweigh something that would probably last for decades.
- c) 2.7. Assumes that affordability is somehow separate from the other criteria and from the rest of the process. As described elsewhere in this paper this approach has invalidated your approach to fulfilling your duty under section 6(5)(a) of the Local Government and Public Involvement in Health Act 2007. In particular none of the consultees have been given data which allows them to make informed choices based on the costs and benefits of alternative proposals.
- d) 2.10 to 2.19. Your section entitled “General Considerations” describes local government predominantly in terms of County functions. A few more local considerations are given in 2.11 but the section is overwhelmingly County Council biased. Your Table 2 best exemplifies this where, for example, you do not mention one of the most customer intensive District services – the payment of benefits. To give an indication of its comparative size, in Devon there are 93,000 pupils⁵ in primary and secondary schools and 89,000 recipients⁶ of Housing and Council Tax Benefits Equally we note the allocation of “Strategic Planning” to Counties when it is primarily a District function.
- e) 2.19. This says “*there is some evidence that population size has an effect on performance*”. However, this is an over-egging of DCLG research⁷ into local authority population size and performance, which shows a mixed picture. In summary it found “*A change in the population served is likely to make a small but significant difference to many aspects of local authority performance. However, the direction and strength of that difference is likely to vary across and within services*”. In addition, you do not comment on how performance might differ between, say, three unitaries of 250,000 and one of 750,000.
- f) 2.22. This introduces your alternative pattern of an Exeter/Exmouth authority. Later in the report you also describe why you have reservations about its practicality. It is strange that the only alternative pattern that you articulate any argument against whatsoever is one that you created yourself. This indicates that you have not adequately fulfilled your statutory duty to take into account representations made to you. In addition the two proposals are clearly distinctly different and one cannot be claimed to be simply a minor variation on your main proposal. Since you were

⁵ <http://www.devon.gov.uk/index/learning/educationstatistics/statistics.htm>

⁶ http://www.dwp.gov.uk/asd/asd1/hb_ctb/hb_ctb_quarterly_aug07.asp#benefit

⁷ “Population Size and Local Authority Performance”, Department of Communities and Local Government, October 2006

prepared to consult on two options you can have had no valid reasons for excluding other legitimate options put to you from this public consultation process.

- g) 2.24 gives a brief picture of the diversity of the review area despite you proposing a single unitary as if Devon were homogenous. You do not return to this key theme later in the report except very briefly in 4.12 and 4.13 to describe the unworkable Community Boards as the solution.
- h) 2.26 describes the criterion regarding the need to garner “*support from citizens*”, yet 2.27 omits “*citizens*” from the list of those stakeholders you say you have “*sought to engage*”. Ignoring the public is an unforgivable omission.
- i) 2.28. states that “*representations that are well argued and provide persuasive evidence in support of the arguments are likely to carry more weight with us*”. In taking this approach you are ensuring that those who are less articulate and literate will be further disadvantaged by being ignored. This would include large client groups that many local government services are aimed at.
- j) 2.30. You say “*strategic leadership*” is “*linked to community identity*” yet do not come back to this absolutely fundamental point in the rest of your report. By omitting to do so you reveal that you have given inadequate consideration to a subject at the heart of the whole review process.
- k) 2.31 (bullet 3). You clearly realise that the enormous single unitary you propose would increase “*the distance between governors and governed*” and assume that Community Boards would tackle this point. However, as demonstrated elsewhere in this paper they will not be able to.
- l) 2.31 (bullet 4). Your nostrum for the increasingly complex array “*of local actors and partnerships*” seems to consist of creating a further 30 new partnerships (28 Community Boards, a City Board, and an assembly). This appears perverse because it does not decrease the complexity, but increases it.
- m) 2.38 to 2.44. The whole section on “*Deliver the empowerment of citizens and communities*” is based on your flawed assumption that Community Boards would be able to operate in the way described by the County Council. As described elsewhere in this paper and in Appendix B, they will not. The current legislative framework does not allow it.
- n) 2.46. Table 4 shows the results of some old research done in the north of England. Without any further testing you have assumed that these results are still applicable, and that they are equally valid hundreds of miles away in Devon.
- o) 2.50 and 2.51. You say that the delivery of major services without the use of any joint arrangements is necessary for a pattern of local government to be viable. You make this point as if it had led you to discount one or more of the other concepts put to you. Yet you do not say which concepts failed at this hurdle, nor do you say why you think Government policy is wrong. (The main thrust of the National Procurement Strategy is based on joint service provision) In addition it should be noted that Devon County Council’s present Constitution already describes joint arrangements for:
 - social care
 - housing
 - waste
 - economic development

The logic of your argument would lead to the strange conclusion that Devon County Council is too small to be viable.

However, more important is its contradiction of the Secretary of State's guidance to you, which is dealt with later in this paper.

- p) 2.53 to 2.56. The whole section on "Affordability" is based on no more than assumption. You imply that your proposal will be affordable, but have no evidence whatsoever on this. Nor have you sought to compare more than one affordable option. This is entirely due to your decision to postpone any work on affordability until after your draft proposal and the consultation.
- q) 2.53 to 2.56. In taking this approach to affordability you appear to be assuming that any option other than a single unitary would not be affordable, thus demonstrating prejudgement. Despite this you find merit in an alternative pattern of 2 unitaries, including one of only 160,000 population. This is inconsistent.
- r) 2.56. You suggest that the only options open to you were to:
 - o either, fully assess every alternative pattern,
 - o or, to assess none until it was too late to influence your draft proposal and too late to inform the opinion of any stakeholder.

This gross-oversimplification has tainted the process beyond redemption. Given that this review is determining something which fundamentally impacts on peoples lives for years to come it is inappropriate that valid alternatives were removed from the process simply because you were not resourced to assess a number of alternative patterns.

- s) 4.26. You talk of "*significant concerns that a multi-unitary pattern in the county of Devon, which would result in small rural unitary authorities*". This is inconsistent with you finding merit in an Exeter/Exmouth pattern that would result in an authority smaller than any proposed to you. It is also factually incorrect to call these authorities small when evidence has already been provided to you to show that proposals such as South Devon and Dartmoor and North Devon would be significantly larger than most unitary authorities that already exist. However, you now appear to have changed your opinion because your Deputy Commissioner was prepared to state that alternative proposals were for "substantial unitary authorities"⁸.
- t) 4.26 You also talk of "*unitary authorities without a significant economic centre*". This is inconsistent with the revised Regional Spatial Strategy. For example, both the two proposed authorities mentioned in the preceding paragraph contain one of the Strategy's "Strategically Significant Cities and Towns" [described in more detail in 18 below]. In identifying Barnstaple and Newton Abbot as strategically significant the Regional Spatial Strategy has identified that both the North and the South of the area have key economic centres of influence outside of Exeter which could represent a focus for two unitary seats of government.
- u) 4.29. You talk of the County Council's present performance being "*a broad indicator of the future performance of a county-wide unitary authority*". This assumes that the County Council would simply absorb District Council services. This is inconsistent with the DCLG guidance, which states "*nowhere is it simply a case of one local authority taking on the functions of another – nor must it be*

⁸ Jane Grey in discussion about the adequacy of proposals for community engagement. Boundary Committee meeting with Devon Councils, Exeter, 15th September 2008.

*perceived as such*⁹. We are glad that you openly recognised this point at your meeting with Devon Councils in Exeter on 15th September.

Section 3. The criteria

Summary: The proposal fails to meet the five criteria in the Secretary of State's guidance.

16. *"Affordable, i.e. that the change itself both represents value for money and can be met from councils' existing resource envelope"*

- a) This criterion was deliberately not considered by you despite it being the first criterion described in the Secretary of State's guidance to you dated 6th February 2008. It is clearly totally insufficient for you to rely on your advice to local authorities *"that, in developing their concepts, they should be reasonably satisfied that they would meet the affordability test if we were to adopt any of them as our draft proposal"* (para 2.8 of your report). The situation is even worse regarding the two-unitary pattern that you feel has merit, but was not proposed by anyone. For this pattern you can not even rely on the proposer's opinion for support.

As a result you have no evidence to suggest that your proposal will be affordable. Even if it were affordable you have no yardstick with which to assess its affordability compared to alternative patterns. For example, would a single unitary save £18 million a year and a three unitary pattern 'only' save £16 million a year?

- b) The Leader of Devon County Council has publicly promised downward equalisation of all Council Tax levels. He said *"I believe at the very least this will allow the level of council tax to be reduced to the lowest level currently charged in Devon"* (North Devon Gazette, 17th August 2008). This commitment means that, assuming a single unitary Council were to exist, Council Tax levels in the whole Devon in 2010/11 will be no higher than those in Exeter in 2008/9. If this only applied to District and County expenditure, excluding the Police and Fire Authorities, it would mean some £35-£40 million would be needed before the new Council started to meet the cost of the untried Community Boards or recoup the costs of change. Inevitably this would be at the expense of reduced services.

This uncostered commitment implies levels of efficiency gains far in excess of those in other re-organised areas. This could only be achieved through significant service reductions. It can only be assumed that those proposing this pattern are relying on the inability of present Councils to bind successor authorities to their promises.

17. *"Supported by a broad cross section of partners and stakeholders"*

- a) During your presentations to Devon Councils in March 2008 you were very clear that for a proposal to be recommended by you it would require *"a broad cross-section of support"*. Your proposals have not received support.
- b) Understandably the Secretary of State guidance to you says *"no single council or body, or group of councils or bodies, should have a veto"*. However, the only principal authority in Devon to support your draft proposal of a single unitary is Devon County Council, all others oppose it. Similarly the only principal authority to support your

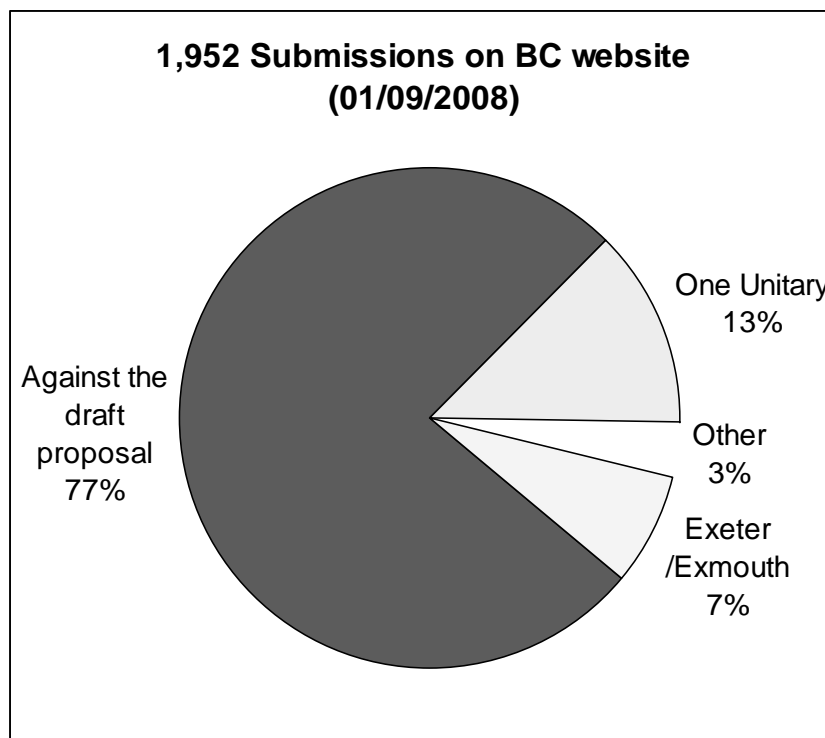
⁹ Local Government Restructuring – Guidance On Staffing Issues (para 2.6) DCLG June 2008

alternative pattern, including an Exeter/Exmouth unitary, is Exeter City Council, all others oppose it.

- c) In terms of stakeholder's support. The 40 people that attended "listening events" could not be considered a broad cross section. In addition they were most certainly not in support of your proposal, for example, at the Barnstaple events there was a total of one person in support of a single Devon unitary, with everyone else against it.
- d) The public also reject these proposals. An analysis of two thousand submissions on your website at the end of August shows that the vast majority (77%) oppose your draft proposal. Only one in eight (13%) is in favour of a single giant unitary, and a yet smaller proportion (7%) supports the Exeter/Exmouth pattern.

This is despite your process giving an additional weighting to the two patterns in your report. Many respondents clearly state that they favour one of your patterns only because they feel it is better than the other, and believe that nothing else is possible. Despite this distortion the great majority are still against a single unitary, with many favouring the status quo despite you telling them that this is not an option.

The Deputy Director for Local Democracy at the CLG has corrected your position regarding the status quo, particularly in para 22 of his letter of 13th August 2008 and you openly accepted this at your meeting with Devon Councils in Exeter on 15th September.



- e) Town and Parish Councils' opinion closely reflects public opinion. Submissions from 20% (83) of Devon Parishes are on your website, although many more have contacted you. Of this 83 there are 8 that do not express an opinion on your draft proposal, often because their submission preceded its publication.

80% of Devon's 75 Town and Parish Councils are opposed to your draft proposal. About half of the remaining 20% support one of your patterns reluctantly, in the belief that nothing else is possible.

18. *“Provide strong, effective and accountable strategic leadership, including that strong economic leadership recognised in the Government’s Review of subnational economic development and regeneration”*

- a) You appear to have weighted this criterion more heavily than the other three (i.e. ignoring “affordability”) in arriving at your conclusion. It is unclear why some criteria should be treated as more equal than others.
- b) The sub-national review (SNR) describes the government’s belief that *“there should be a single regional strategy which sets out each region’s economic, environmental and social objectives”*. The Draft Revised Regional Spatial Strategy incorporating the Secretary of State’s proposed changes was published for consultation on 22 July 2008. As this was after your report appeared you will not have been able to take account of it. It identifies 21 Strategically Significant Cities and Towns (SSCT) in the southwest, which are described as the focal points for economic activity, cultural facilities and a wide range of services fundamental to residents’ quality of life and where the requirements of individuals to travel can be catered for by better and more reliable public transport provision. They are also key places in the region with potential to achieve further significant development sustainably. This is very similar to the description given in para 12(x) of the Secretary of State’s guidance to you.

The SSCTs in the review area are:

- Barnstaple
- Exeter
- Newton Abbot
- Plymouth
- Torbay

This evidence further reinforces the argument previously advanced that, if there were to be a change, the new structure of local government should reflect the economic and social reality of life in Devon rather than an amalgamation of distinct economic areas.

- c) By proposing a single unitary authority you are not adhering to the Secretary of State’s guidance on providing strong economic leadership as recognised in the SNR which, on page 3 seeks to ensure that:
 - *“local authorities and Regional Development Agencies are empowered to spread economic well-being and opportunity to everyone in their region”,* and
 - *“policy decisions that affect economic well-being are taken at the right spatial levels”*.

A single unitary would not be able to fulfil the criteria for the promotion of economic well-being laid down in “Box 6.1: Local authority role in promoting prosperity” of the SNR document. A local government structure that reflects the SSCTs would be able to do so. Either a small number of unitaries or the status quo would meet the criterion better than your proposal does.

19. *“Deliver genuine opportunities for neighbourhood flexibility and empowerment, in particular for empowering citizens and communities as envisaged in the Government’s Green Paper Governance of Britain and in the Government’s and the LGA’s ‘An Action Plan for Community Empowerment: building on success”*

- a) In your report you say:

“4.12 One of the most important challenges facing the proposed unitary county authority would be to demonstrate that it was not too large to engage with and empower citizens and communities. We have already noted that a Devon

unitary council would be one of the largest unitary authorities in population terms and cover a large geographical area. We recognise that it would represent a range of rural and urban areas which differ markedly in socio-economic make-up. Additionally, Devon has many sparsely populated and remote areas which suffer from difficult communication links, plus two National Parks (one of which is partly in Somerset) and several Areas of Outstanding Natural Beauty (AONBs).

4.13 We consider that the proposals set out by the County Council in its concept have the capacity to address these concerns. It envisaged a neighbourhood empowerment scheme that would create 28 Community Boards based around the 28 market towns of Devon, together with a City Board for Exeter with broader responsibilities.”

Clearly the proposed, untested, Community Boards are, in your view, the cornerstone of delivering the Secretary of State’s guidance requiring “*devolution of power down to local communities so that all communities have the power and resources to influence the decisions that affect them in their localities, and hence improve their quality of life.*”

We note that you express your reservation in para 4.18:

“We are concerned, however, that the extent of devolved funding may be limited to supporting community initiatives”.

However, the proposed Community Boards would have a far more fundamental flaw than the likelihood of inadequate funding. They would require new primary legislation to fulfil the functions described in your report. The most striking example of this is in the details of your description of the proposed arrangements for the Exeter City Board (para 4.19); some of these powers can not be allocated to a Community or City Board. It is possible that they might be able to be delegated to unitary Councillors, but as there would be as few as one single unitary Councillor on some Boards this does not meet the “empowerment” criterion.

An analysis of the legislative framework for local authority decision-making is shown as Appendix B.

Therefore, irrespective of any amount of good intentions, Community Boards cannot deliver local accountability and decision-making because of the present legislative framework. Even before they are fully in place other areas, such as Northumberland and Durham, are backing away and revising their versions of the Community Boards proposed by DCC, and the Chief Executive of Devon County Council has publicly said¹⁰ that they would do no more than give a strategic direction.

- b) Your proposal could be summarised as an assumed marginal reduction in expenditure at the cost of certain deterioration in democratic engagement. This arrangement makes matters worse for communities and depends on an unworkable community engagement mechanism, Community Boards, which institutionalise unequal treatment of different parts of the review area. Rather than improving local government in Devon [as described in the Secretary of State’s guidance] this will make it far worse than at present.

¹⁰ At the Boundary Committee meeting with Devon Councils in Exeter on 15th September 2008.

- c) In regards to a bid for a structural review of a similar large rural area, North Yorkshire, the Secretary of State and Local Government Minister rejected the idea¹¹ in July 2007 because:

“neighbourhood arrangements that are being proposed to mitigate the effects of size are so complicated –operating at a number of spatial levels – that there is a risk that they will prove unworkable”, and

“due to the large geographic areas involved, there are concerns that a county-wide unitary authority may have difficulties effectively representing its electorate and would be seen as remote by most of its citizens.”

Similarly, the decision of the Secretary of State and Local Government Minister on Cheshire¹² was:

“that a single unitary authority would be too big and there were risks that the authority would be seen as remote by local people and hence less able to deliver neighbourhood empowerment.”

Both areas have significantly smaller populations than Devon. North Yorkshire has a similar area to Devon, while Cheshire is only one-third of Devon’s size. Therefore, the same conclusions are even more applicable to the Devon review area.

20. *“Deliver value for money and equity on public services”*

- a) Value for money can not be assessed without first having properly addressed the affordability criteria. This report assumes that a single unitary would pass the VFM criterion without recourse to any data.
- b) In the section of the report headed “Value for Money”(paras 2.45 to 2.52) “*equity*” is not referred to even once. In the whole report the nearest it gets is in para 2.44 where it mentions *“the imperative to ensure that, as far as possible, no individual citizen or community is disadvantaged by any proposals and that there is equality of opportunity to participate in local affairs.”* However, this is the final sentence of the section and is not expanded upon. Therefore, this element of the criterion has been ignored in your proposal. Given that a this proposal would mean people living in North Devon would have to have the means to make significant road trips and lose more than three hours of any day simple travelling to and from a Council meeting we believe this proposal excludes all those already suffering any form of social disadvantage from viable participation in local democracy.
- c) In addition there is institutionalised inequity in your proposal for Boards. You propose Community Boards only to conclude that one Board should be constituted differently. The Exeter City Board is proposed to have its own budget and an extended array of powers and duties, with the rest of the county having, presumably, second-class arrangements.

¹¹

www.communities.gov.uk/localgovernment/strategies/strongprosperous/publications/policydocuments/decisionletters/proposalsdecember2007/

¹²

www.communities.gov.uk/localgovernment/strategies/strongprosperous/publications/policydocuments/decisionletters/december182007/

- d) The proposal is unlikely to “*ultimately increase customer satisfaction*” due to the widespread opposition across Devon to this change. This opposition should not be misread as the reaction described in your para 2.29 “*many people find the prospect of a move to unitary local government unwelcome or are indifferent to change.*” Instead it is opposition to poorly considered proposals that do not meet the needs of customers and communities.
- e) The Secretary of State’s guidance asks for “*value for money ... being delivered through, maximising collaboration and technology*”. However, you appear to have rejected some proposals for more than one unitary local authority in Devon because “*any new unitary authority should be capable of providing or procuring, without recourse to formal joint arrangements, most or all of the full range of local government services*” (para 2.51 of your report).
- This is in direct contradiction to the National Procurement Strategy a key element of which is “partnering and collaboration”. One of the highlights trumpeted at the beginning of the Strategy’s final report (April 2008) is “*54% (i.e. more than half of councils) involved in joint commissioning of services.*”
 - More important is its contradiction of the Secretary of State’s guidance to you that “*a new structure should deliver services characterised by being delivered through, maximising collaboration*”.
- f) The Secretary of State’s guidance says “*services should reflect consideration having been given to demand and other factors in the area including, for example, areas of deprivation, transport links and travel-to-work, shopping/leisure patterns*”. This consideration is not reflected in the report despite substantial impartial evidence having been submitted showing significant differences across Devon. The latest such evidence is the Regional Spatial Strategy’s identification of SSCTs, which have a remarkably similar definition.
- g) The Secretary of State’s guidance says “*communities playing an active role in influencing and shaping both their (i.e. services) planning and delivery*”. These proposals are based on this being delivered through Community Boards. However, the general tenor of the responses from individuals, local groups, and Parish and Town Councils is that these proposed Boards will have the opposite effect, with communities being provided with a talking shop while real decision-making will lie at the centre of the organisation. In addition there are no examples of systems similar to the proposed Community Boards working in practice.

Section 4. Conclusions

The Committee has failed to demonstrate satisfactorily that the proposal on the table is a model which best meets the five criteria set out in the statutory guidance from the Secretary of State.

In addition we believe the basis for supporting this stance has contradicted the following statutes or Government policies:

- The White Paper, “Strong and Prosperous Communities”.
- The White Paper “Communities in Control: Real People, Real Power”.
- Local Government Restructuring – Guidance On Staffing Issues.
- The Local Government Act 2000.

- The Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 as amended.
- The National Procurement Strategy.

You have not shown that the proposal for a County wide unitary represents a beneficial system of local government for the people of Devon. In introducing this proposal you have adopted an approach that has reduced the consultation to a meaningless level. By only consulting on a single option without any discussion on alternatives (including the merits of the existing two tier system) you have effectively removed any opportunity for people to understand all of the issues and take a view on the best options for delivering the aspirations of the legislation as described in the White Paper.

The final conclusion of your report appears to be that the single unitary option is the best because it is the least complex to set up and might therefore produce savings more easily. (This leaves aside the spurious debate about the untried and clearly unworkable Community Boards). This is at odds with the prime objectives of trying to create something that is locally accountable and that engages people in the democratic process in a meaningful way. In reality the Secretary of State could achieve this ease of transition and cost efficiency without any cost to local democracy by allowing the existing districts to continue their work of joint service provision and possible future amalgamation. This alternative solution would protect local democracy, produce the required savings and will be significantly less disruptive than any option that has been put forward.

We note, for example, that now the draft costs have been produced for the Devonwide unitary virtually all of the saving proposed come from the amalgamation of district services and not from integration with county services. We also note that one of the significant costs is the creation of the undemocratic community support structure needed to replace local democracy. Would it not make more sense to seek to enhance two tier working based around reducing the number of Districts from, say , eight to four. This could still provide the significant savings from amalgamating the district services without the need for huge disruption or the need to create a local undemocratic structure to cover up for the loss of true democratic representation at a local level?

In summary we cannot support the proposal for a single unitary council across Devon. It represents a loss of democracy and it leaves many in rural areas unable to have any form of viable participation in the democratic process. You have now received viable alternatives to this proposal in the form of a two or three unitary pattern (excluding Plymouth and Torbay) and in the form of representations for enhancing the two tier arrangements. Either would be significantly preferable in delivering the Secretary of States vision for re-engaging communities in the democratic process. We urge you not to dismiss these alternatives but to subject them to a proper and open process of analysis, scrutiny and debate.

Appendix A

Communities in Control: Real People, Real Power

As part of the Boundary Committee's review on the future of Devon Councils, the following report has been collated to consider the boundary options in the light of the white paper 'Communities in Control: Real People, Real Power', published on 9th July 2008.

Three key topics have been identified as most relevant to the Boundary Committee's work:

- Public Demand
- Access to Services
- Closer to the People

Summary

The preferred option of the Boundary Committee does not satisfy public demand for more locally accountable services that are accessible to local people. More importantly, it reduces democratic participation where it matters – counteracting the Government's pledge to have more local citizens involved in democratic processes and increased community empowerment for a cohesive society.

Instead, the preferred option of the Boundary Committee will leave Devon's people disenfranchised from the democratic process, powerless to act and disconnected from the services that they pay for.

Public Demand

Community empowerment works when the decisions made by local services match the wishes of local citizens. When communities talk about 'local', they often mean their nearest village or town, the place they are most happy to access and interact with public services.

The further the communities are from the local authority delivering their services and collecting their council tax, the more disconnected people feel. This exacerbates the general opinion that '*people locally don't feel they have an adequate say in the running of local services*' (page 2, executive summary)

As the statement from the Commission for Rural Communities points out, '*We know that many rural communities struggle to make their voices heard locally.*' By drawing service centres away to more distant locations, this is likely to make the issue worse, rather than better.

From a community development perspective, we recognise the public demand for local democracy and public services to be brought closer to communities, not further away. We predict that the Place Survey will support this perspective.

Access to Services

Communities feel more empowered when they are able to access information and services at as local a level as possible. As the white paper points out, '*it is important that every local authority has a system of accessible, interactive contact for citizens to raise concerns*' (page 8, executive summary). It is difficult to see how this will be possible if services are more remote from communities.

The white paper states '*that services and outcomes... can be better when residents share aims and are actively involved*' (page 41). However, it is going to be increasingly difficult

for residents to feel, and be, involved in service provision if the provision of services becomes more remote from the citizens they serve.

Our experiences in community development suggest that local communities want to be closer to access points for public services, not more remote.

Closer to the People, closer to Democracy

The white paper states that the government '*want[s] more visible and accountable local leaders*' (page 7) and '*a wider range of people standing for election to their local council*' (page 9). This is re-emphasised further in the paper, which states that '*the Government believes that local councillors are central to our national life and to our system of democracy. We recognise the vital role of councillors in shaping and delivering services, speaking up for people, championing their areas, and keeping our democracy alive in every part of the country*' (page 105).

However, the Boundary Committee's preferred option would reduce the number of elected members representing Devon's population where it matters by about three quarters.

This reduction in elected representatives may exacerbate the statistic that '*nearly 4 out of 10 people do not feel that councillors are representative of their communities*' (page 20).

It will also be harder to engage Devon's population in the '*political activity [that] is valuable and worthwhile, should be recognised and rewarded, and is an essential part of Britain's national life*' (page 13) if the decision-making centre is located up to 70 miles away on inaccessible routes with little in the way of public transport. Only those with large amounts of time and access to private transport would be able to fulfil their duties as elected representatives at this level, reducing the pool of likely candidates in the general population.

Our experiences of community development in Devon clearly indicate that the further one moves away from the locality, the less likely citizens are to get involved in local democracy and the more likely they are to feel a sense of powerlessness and unable to influence decisions (page 21).

Furthermore, the proposed 28 Community Boards in the market towns will disenfranchise largely rural areas who will have little or no representation and whose views may therefore be unheard.

The white paper states that,

'We want formal democratic decision-making to be conducted as locally as possible, so that citizens can feel that their local government is part of the fabric of community life and that their views can be heard and acted upon by local councillors' (page 70).

It is far from clear how much decision making power and budgetary control the proposed 28 Community Boards would have compared to the centre. With representatives from other public agencies invited to them, these are likely to function like mini-Local Strategic Partnerships, except that partners are far less likely to attend. It is far more likely that they will be dismissed as 'talking shops' and that 'real' decisions will be made at a higher level. The worst case is that they will become forums at which the Unitary Councillors will be blamed for not being able to deliver on local priorities that conflict with centralised resourcing decisions.

Appendix B

Community Boards and Local Authority Decision Making

This analysis has been prepared assuming that Community Boards are made up of:

- Unitary Council Member(s)
- Parish Council(s)
- Community Groups(s)
- Other stakeholders e.g. Police

1. EXECUTIVE DECISIONS

1.1 The Local Government Act 2000 and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 as amended determine responsibility for the discharge of executive functions. Local Authorities that are subject to the 2000 Act are County/District/Unitary Councils and London Boroughs.

1.2 Under these statutory provisions Executive arrangements may provide for executive decisions to be taken by:

- a) the Executive
- b) a committee of the Executive; which can only be made up of Executive members
- c) a member of the Executive
- d) an officer
- e) an Area Committee; which can only be made up of the local authority Councillors whose Ward falls wholly or partly within the defined geographic area of the Area Committee
- f) another local authority, or the Executive of another local authority
- g) a Joint Committee. Members of a joint committee may only be respective Executive members; or, depending upon the functions of the joint committee, executive members and members of the respective local authorities.

1.3 There are provisions in the Local Government and Public Involvement in Health Act 2007, which will allow individual members of a local authority to take certain decisions, but these provisions have yet to be implemented.

1.4 It can be seen therefore that Executive decision making is tightly drawn in legislation, with no provisions therein that will allow a Community Board, as constituted above, to have any executive decision making powers.

1.5 At best such a Community Board could be a 'sounding board' for executive functions e.g.

- Consultee on policy development and review
- Consultee on LSP and LAA issues
- Consultee providing input to the Sustainable Community Strategy
- Consultee on recommendations to be made to an executive decision making body (for example an officer report, or a decision to be taken by an Executive member)
- Monitor of service performance
i.e. a body of *'influence'*.

1.6 At worst such a Community Board could be a *'talking shop'*, the outcomes of which have no material impact on improving the social, economic or environmental wellbeing of the area.

2. COUNCIL DECISIONS

2.1 This section looks at determination of decisions that are the responsibility of full Council. These decisions will include regulatory functions such as determination of planning applications and determination of licensing applications.

2.2 The statutory provisions governing the discharge of Council functions are contained in the Local Government Act 1972; and are substantially the same as those for Executive arrangements.

2.3 A Council may make arrangements for the discharge of its functions by:

- a) the Full Council;
- b) a Committee of the Council, which may co-opt non-Councillors to serve in certain circumstances, and who may have voting rights in certain circumstances;
- c) an officer;
- d) an Area Committee – same provision as per Executive arrangements (see 1.2(e));
- e) another local authority;
- f) a Joint Committee. A joint committee may only comprise members of the respective local authorities.

2.4 Here again, Council decision making is tightly drawn in legislation with no provisions therein that will allow a Community Board, as constituted above, to have any decision making powers.

2.5 The generality of paragraphs 1.5 and 1.6 are relevant here.

3. THE IMPACT OF COMMUNITY BOARDS

3.1 The impact of Community Boards as constituted above will be dependent upon:

- a) The agenda
 - o the range of issues they may discuss
 - o who may put issues on to an agenda
 - o who decides which issues are included on an agenda
- b) Their context and positioning
 - o are they 'stand alone' bodies?
 - o do they have reporting links to the local authority Executive and Council?
 - o are they part of the LSP structure; are Community Boards to be represented on the LSP body?
- c) How its outcomes are to be measured to demonstrate that it is making a difference to the social, economic and environmental well being of the community, and to continuously improve its own performance.

3.2 In any event, the impact can only be influential and persuasive rather than in a decision making context.