

## Minutes of the meeting of the Electoral Commission held on Wednesday 22 July 2009, London

Present: Jenny Watson (JW) Chair  
Henrietta Campbell (HC)  
Max Caller (MC)  
John McCormick (JMcC)  
Karamjit Singh (KS)

In attendance: Clare Ettinghausen (CE)  
Carolyn Hughes (CH)  
Stephen Rooney (SR)  
Andrew Scallan (AS)  
Bob Posner (BP)  
Vera Markos (VM)  
Kairen Zonena (KZ) minutes  
  
Archie Gall (AG)

### **Apologies**

Ian Kelsall

### **1 Declaration of Interests**

- 1.1 JW declared her ownership of a property in Norfolk. Neither she nor any of her close family or associates was active in the community there. She therefore did not feel that the interest was of a nature to preclude her participating in the decision. The Board agreed.
- 1.2 MC declared his ownership of a property in Suffolk and noted that it had been agreed by the Boundary Committee at the start of the review that the interest was not such as to preclude him from participating in decisions in relation to Suffolk, which the Board noted.
- 1.3 Consideration was given to whether it was appropriate that MC (as chair of the Boundary Committee) and AG (as Head of Boundary Reviews) should be present for the making of the decision on item 2 below by the Commission Board (decision whether to appeal against High Court judgement – Boundary Committee for England structural review local government in Suffolk). It was agreed by the Board, therefore, that it would be useful for MC and AG to be present to answer questions of fact, and confirm the view of the Boundary Committee for England, before leaving the room. MC felt that the decision to be taken in this instance differed significantly from other Boundary Committee business dealt with by the Commission. He did not consider it

necessary to withdraw for the deliberation and decision, and expressed dissatisfaction at being asked to do so. Nevertheless, he and AG did so in accordance with a request from the other Commissioners.

2. Decision whether to appeal against High Court judgement – Boundary Committee for England structural review local government in Suffolk (EC73/09)
  - 2.1 KS asked whether the draft minutes of the Boundary Committee's meeting on 9 July were available for Commission Board. He was advised that they were not yet available. MC and AG confirmed, however, that the Boundary Committee had agreed to request the Commission to authorise an appeal when it had met on 9 July.
  - 2.2 BP introduced the report, briefly outlining the history, the grounds for appeal, the likelihood or otherwise of success, the question of further legal challenges, and the options available to the Commission.
  - 2.3 AS reported that the Boundary Committee had requested the Board to appeal because they felt the judgement was wrong in the interpretation of the Secretary of State's guidance that it had had regard to in carrying out the structural reviews. The judgement had implications beyond the structural reviews themselves because of the judge's interpretation of how consultation should be undertaken. The Boundary Committee believed that its work over the past 18 months was a valuable contribution to consideration of the future of local government and it considered it had properly engaged with proponents of unitary concepts in advance of reaching conclusions on its further draft proposals.

MC and AG then left the discussion at 11.40am.

- 2.4 Discussion took place on the arguments for and against lodging an appeal. Various points were made about the risks of proceeding with an appeal, but also about the risks of not proceeding.
- 2.5 The Commission Board decided by a majority that the Commission should not enter an appeal but that should the Secretary of State appeal then the Commission would seek to proceed in court as an interested party. It was also noted that permission to appeal had been granted to the Secretary of State.
- 2.6 The handling and presentation of this announcement would be discussed with the Boundary Committee which was due to meet the following week. Discussions would also need to take place with the Department for Communities and Local Government in order to inform them of the Commission's decision.

EC76/09

**Agreed:** That:

- (a) the Electoral Commission should not authorise the lodging of an appeal against the High Court judgement; and
- (b) the Commission would wish to be represented as an interested party in any appeal lodged by the Secretary of State for Communities and Local Government.

MC and AG rejoined the meeting and were advised of the decision at 12.15pm.

### 3. Boundary Committee for England quorum (EC74/09)

**Agreed:** That the Boundary Committee's quorum be reduced from four to three (to comprise one Electoral Commissioner and two Deputy Commissioners) with immediate effect.

The meeting ended at 12.30 pm.

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