

Text of the Booklet Entitled *Local Inquiry – Processes and Procedures* Published prior to Local Inquiries

Introduction

Purpose of this Booklet

1. This booklet has been prepared by the Boundary Commission for Scotland to explain the opportunities that are available at local inquiries for those members of the public or organisations who may wish to take part in the debate on the Commission's provisional proposals for revised Parliamentary constituency boundaries. The information is restricted to processes and procedures regarding the review of the boundaries of Westminster constituencies and does not deal with the Commission's obligations to review the boundaries of the Regions for returning additional members to the Scottish Parliament in terms of The Scotland Act 1998.

Importance of Public Response

2. The Commission wishes to ensure that members of the public or organisations have a full opportunity to express their views. **The Commission, therefore, recommends any persons or organisations with an interest in this matter to attend, or send a representative to, any local inquiry held in their area to put forward their views on the provisional recommendations.** Attendance at an inquiry will also afford an opportunity to hear and comment on any counter-proposals put to the Assistant Commissioner and thereby assist him/her and the Commission to gauge more accurately the weight of local opinion on the various proposals.

3. It is sometimes difficult for the Commission to obtain a true measure of local opinion if those who support, or at least do not object to, the Commission's provisional recommendations do not make known to the Commission their support or lack of objection. As those people are the category least likely to attend a local inquiry, it is all the more important that they should express their views in writing.

Statutory Rules

4. This booklet is not intended to be a full statement of the law regarding the review and distribution of parliamentary constituencies. For a definitive statement of the law, the reader is referred to the provisions of the Parliamentary Constituencies Act 1986, as amended. In framing

its provisional proposals, the Commission is required to observe the rules for the redistribution of seats which form Schedule 2 to the 1986 Act. The rules are reproduced at Appendix A.

Changes to the Rules

5. Section 86 of The Scotland Act 1998 made a number of changes to the Parliamentary Constituencies Act 1986, Schedule 2 rules, the outcome of which was as follows:

- Rule 1(2) was removed: there is now no minimum number of Scottish seats at Westminster.
- Rule 3A was inserted: a constituency which includes the Orkney Islands or the Shetland Islands shall not include the whole or part of any other local authority area.
- Rule 5 was altered: for the first review following The Scotland Act 1998, the electoral quota for England must be used to determine the appropriate number of Scottish seats at Westminster.
- Rule 7 was modified: rule 3A, regarding the Orkney Islands and the Shetland Islands (see above), cannot be disregarded.

6. Removal of a minimum number of seats for Scotland at the Westminster Parliament, coupled with the requirement that the electoral quota for England must be used to determine the level of Scottish representation, has inevitably resulted in an overall reduction of the number of Scottish seats. On the basis of the provisional electoral quota for England of around 70,000, Scotland would be entitled to around 57 seats rather than the 72 presently allocated. Taking account of geographical considerations, as it is entitled to do, the Commission has provisionally recommended that there should be 59 Scottish seats at Westminster.

Procedures Leading to a Local Inquiry

General

1. The Boundary Commission for Scotland has a statutory obligation under the Parliamentary Constituencies Act 1986 to keep under review the Parliamentary constituencies in Scotland and to conduct a general review between 8 and 12 years from the date of the report on its last general review. The last periodical review report was submitted to the Secretary of State for Scotland in 1994. The Commission's next report must, therefore, be submitted between December 2002 and December 2006.

Provisional Recommendations

2. At an early stage in its deliberations the Commission established the theoretical entitlement of seats at Westminster both for the whole of Scotland and for each local authority. This analysis made it clear that the Commission would need to consider

combining some adjacent local authority areas so that it could devise constituencies which fell within the terms of the statutory rules.

3. In the first instance the Commission determined that, where the number of parliamentary electors within a local authority is broadly in line with the electoral quota, the boundary of the local authority and parliamentary constituency should be coterminous. The provisional recommendations for Scotland, therefore, include 9 constituencies which each comprise the area of an individual local authority. Included in this group are proposals for Comhairle nan Eilean Siar where the electorate falls substantially short of the electoral quota but, having regard to the detached nature of the Council area and other geographic features, the Commission concluded that it should form a single constituency.

4. In the case of 5 local authority areas, the Commission concluded that the size of the electorate gave a theoretical entitlement to two or more constituencies which vary only marginally from the electoral quota. The Commission, therefore, recommends that for these 5 areas, bearing in mind other aspects of the statutory rules, the constituencies should not breach local authority boundaries.

5. In the case of 18 local authority areas, the Commission noted that the theoretical entitlement to constituencies was such that a satisfactory constituency structure within the terms of the statutory rules was not achievable without breaching local authority boundaries. In these cases, the Commission considered it necessary to combine two or more local authority areas to enable the formulation of provisional recommendations. However, the Commission seeks to minimise the number of occasions where constituencies cross local authority boundaries.

6. After it had completed draft proposals for all local authorities in Scotland, the Commission considered the revised constituency map for Scotland to ensure that it had applied the statutory rules equitably.

7. For this review the Commission has followed the established practice of publishing provisional recommendations without prior consultation with local authorities and other interested parties. The Commission's proposals are independent of any political considerations or consequences.

Publication of Provisional Recommendations

8. Provisional recommendations must be made available for public comment. Statute requires the Commission to publish a notice of its provisional recommendations in at least one newspaper circulating in each of the constituencies which are affected and it is the Commission's practice to consult local authorities about these arrangements. The notice must specify a place in the constituency where details of the proposals may be inspected. Proposals are always illustrated by maps to help make the public more aware of the effect of the Commission's proposals. The statutory notices, maps, associated electorate data, and the Commission's news release are also available on the Commission's web site - www.bcomm-scotland.gov.uk. In addition, councils are offered copies of all the maps and associated documents on CD-ROM for wider distribution within their areas.

9. The legislation stipulates that representations regarding the provisional recommendations should be made to the Commission within a limited period of one calendar month from the date of publication of the statutory notice.

10. The Commission is required to hold a local inquiry if representations objecting to the provisional recommendations are received from an interested local authority (that is the Council for the area lying wholly or partly within the affected constituency) or a body of 100 or more parliamentary electors for such a constituency. In addition, the Commission has the discretion to order a local inquiry even where such objections have not been received.

Local Inquiry

General

1. The inquiry is conducted on behalf of the Commission by an Assistant Commissioner, usually a Sheriff Principal or Sheriff, appointed by the Secretary of State for Scotland at the request of the Commission. The inquiry is conducted at a convenient public place within the area under review, such as the Council Chamber of a local authority. Any interested person or organisation may, if they wish, attend in person - or send a representative to make known their views - whether or not they have previously submitted a written representation to the Commission.

2. The Commission gives advance notice of the local inquiry by publishing in local newspapers a Statutory Notice giving the time, date and venue of the inquiry and the name and address of the Assistant Commissioner. The notice, together with the provisional recommendations and a copy of the representations received, is placed on deposit at locations within the area concerned so that the public may be aware of any counter-proposals or other comments. The Commission informs all individuals and organisations who made written representations in respect of its provisional recommendations of the time, date and venue of the inquiry. The Commission also informs other interested parties such as the relevant local authorities and members of Parliament. A news release regarding the inquiry is issued to the news media. Advance notice is given so that interested parties have time, if they so wish, to make arrangements to be represented at the inquiry.

3. The Commission issues a statement of reasons for its provisional recommendations. The statement is also deposited at the locations mentioned in the published Statutory Notice. This statement is read out on behalf of the Commission by the Assistant Commissioner at the opening of the inquiry.

4. Prior to the inquiry, to help expedite the procedure, the Assistant Commissioner will provisionally determine the order in which representations offering alternative proposals for constituency boundaries, names or designations, received during the consultation period will be considered. Details of the provisional order of business will be made available prior to the start of the inquiry, together with the statutory notice and the summary and copies of the representations received by the Commission. The various documents will be deposited at the same locations at which the Commission's provisional recommendations were made available for inspection.

5. A transcript of the proceedings of the inquiry will be prepared.

The Commission's Role

6. The Commission will not be represented at the inquiry, although a member of the Secretariat may be present as an observer and to assist with the mechanics of the inquiry. The Commission will not seek to defend its proposals at the inquiry because it considers that to do so may give the impression that it is unwilling or reluctant to alter its provisional recommendations.

Procedure

7. No statutory procedure is prescribed for the conduct of a local inquiry; this is left to the discretion of the Assistant Commissioner. Inquiries are informal and statements can be read or oral submissions made without any prior formality such as taking an oath or affirming. The purpose of a local inquiry is:

- a. to get to know local opinion;
- b. to hear criticisms of, or support for, the provisional recommendations;
- c. to receive counter-proposals; and
- d. to enable everyone who wishes to comment on these, or on the Commission's proposals, to do so.

8. At the start of the inquiry the Assistant Commissioner will read out the Commission's statement.

9. The Assistant Commissioner will then ask the organisations or individuals listed in the provisional order of business if they would confirm that they wish to offer oral evidence. Where a sponsor is representing a person or organisation, a note will be made of that person's name. Thereafter, the Assistant Commissioner will ask for and note the name of any individual or organisation represented but not included in the provisional order of business wishing to offer evidence to the inquiry.

10. Assistant Commissioners would find it helpful if organisations or individuals wishing to propose elaborate or substantial counter-proposals would disclose this fact at the beginning of the inquiry when giving their names. Copies of any written submissions, schemes or maps should be provided for the Assistant Commissioner, verbatim reporters and, if possible, others attending the inquiry, to give them an opportunity to study and comment on counter-proposals at the inquiry. The Assistant Commissioner might consider it necessary to adjourn the inquiry for a short period in order to allow time for consideration to be given to complex counter-proposals.

11. Other persons wishing to make written submissions or to read out written submissions are asked to provide, if possible, copies of the submissions or statements for the

convenience of the Assistant Commissioner, verbatim reporters and others attending the inquiry.

12. After the Assistant Commissioner has heard each speaker, he may, at his discretion, invite questions to be asked through him of that speaker and he may have questions of his own.

13. When the inquiry has closed, the Assistant Commissioner will write his report and submit it to the Commission. The Assistant Commissioner is fully entitled to comment on the Commission's proposals and on any representations or submissions. The report may recommend that the Commission's proposals be accepted intact or with alterations or that a counter-proposal be adopted. However, the Assistant Commissioner is also at liberty to offer completely revised proposals within the terms of the statutory rules which, in his opinion, are likely to be acceptable within the area under review.

Procedures Following a Local Inquiry

Revised Recommendations

1. The Commission considers the Assistant Commissioner's Report and the matters discussed at the inquiry, together with any other relevant information. If the Commission decides to alter its provisional recommendations, its revised recommendations are made available for public inspection in the same way as the provisional recommendations. A copy of the Assistant Commissioner's Report is made available with the relevant documents for public inspection. Those who took part in the inquiry each receive a copy of the Assistant Commissioner's Report.

2. Representations about these revised proposals may then be made within a one-month period. The Commission is not obliged to hold a further inquiry in respect of all or part of an area involved, but may do so if it considers that it is necessary to obtain more information or local opinion on certain matters. If the Commission decides to modify its revised recommendations before finally submitting them to the Secretary of State for Scotland, the modified proposals will be published and representations invited again.

3. If the Commission decides not to alter its provisional recommendations, these will be published as the Commission's final recommendations and all those who participated in the local inquiry will be informed of its decision.

Obligations under The Scotland Act 1998

4. *Following enactment of the Scottish Parliament (Constituencies) Act 2004, the published text of paragraph 4 no longer applies.*

Order in Council

5. Once it has decided on its final recommendations for the whole of Scotland in terms of its obligations under the Parliamentary Constituencies Act 1986, as amended, and The Scotland Act 1998, the Commission submits these in its Report to the Secretary of State for Scotland. The Secretary of State is under a statutory duty to lay the Commission's Report before the UK Parliament. If the Report recommends alterations to existing Parliamentary constituency boundaries, the Secretary of State must also lay a draft Order in Council before Parliament at the same time, giving effect to the proposals with or without modifications. If the Secretary of State has decided to modify the Commission's final recommendations, a statement of the reasons for these modifications must also be laid before Parliament. The Order must be approved by both Houses of Parliament and, if approved, takes effect at the next General Election. *(A copy of the Commission's Report will also be laid before the Scottish Parliament. Following enactment of the Scottish Parliament (Constituencies) Act 2004, this no longer applies.)*

Appendix A (see page 208)