

Minutes of the third meeting of 2020 of the Boundary Commission for England, held on 7 December 2020

Mr Justice Peter Lane (Deputy Chair)
Sarah Hamilton (Commissioner)
Colin Byrne (Commissioner)
Tim Bowden (Secretary to the Commission)
Tony Bellringer (Secretariat)
Wotey Tannoh (Secretariat)

1. Welcome and minutes of the last meeting

- 1.1. Some minor modifications to the draft minutes of the Commission meeting of 11 September were made, subject to which those minutes were agreed.

2. 2023 Review Programme update - Paper 1

Staffing and recruitment

- 2.1. Commissioners noted that one Review Manager and five Review Officers had joined since the last meeting, and induction was going well. A sixth Review Officer was due to start on 8 December, with the remaining three identified and awaiting finalisation of security checks before start dates could be agreed.
- 2.2. A Support Officer had been recruited to start on 1 February, and the position of Business Manager had been advertised externally, with applications closing on 10 January.
- 2.3. Mr Bowden and Mrs Tannoh were working with the Government Communications Service to identify a suitable individual to fill the Communications Manager role, with a view to the post being filled during January.
- 2.4. The Secretariat agreed to provide Commissioners with an organogram, which would include photos of staff.

Finance

- 2.5. Commissioners noted that the sponsor department was seeking across the board savings of around 10% as part of the Government's spending review of prospective 2021-22 budgets. Commissioners agreed that the Secretary should make the case for the 2023 Review to be excluded from the general cross-Government reduction of budgets, on the basis of the prioritisation given to the delivery of the review by Parliament and the current Government's own manifesto commitment.
- 2.6. Commissioners noted that any savings they were ultimately required to make could only realistically be taken from the Communications budget, and even cuts here would

impact the public's confidence in the thoroughness and integrity of the Review. Any further reductions in other areas could seriously risk the deliverability of the Review overall within the statutory timeframe.

Parliamentary Constituencies Bill 2019-21

- 2.7. Commissioners noted that the Parliamentary Constituencies Bill had completed its Parliamentary stages, and Royal Assent was anticipated by the end of the month.

Electorate data

- 2.8. The Commission noted that collection and verification of electorate data was generally going well, though a number of Electoral Registration Officers were having problems producing the data according to their 'prospective' ward boundaries (as provided for in the Bill). The Secretariat were working with the relevant local authorities and Cabinet Office, to try and ensure that the data was provided in this way by January, when Review staff would need to start working on the development of draft initial proposals. The Secretariat was also considering how to take forward the work if the correctly structured data was not available by January.
- 2.9. The Commission noted that ONS planned to publish their electorate datasets on 5 January, and that all four Parliamentary Boundary Commissions had formally requested early access and sharing amongst themselves of the top-level figures, in order to allow them to agree the distribution of constituencies to each nation and region, the electoral quota figure, and the minimum and maximum permitted electorate for non-'protected' constituencies. The Commission agreed that if this early release and sharing was granted, the aim should be to publish the distribution, electoral quota, and permitted maximum/minimum figures the same day as the ONS publication, or as soon as possible thereafter if sharing was not granted.

Technology

- 2.10. The Commission noted that Informed Solutions had won the contract for provision of cloud based support for a GIS system during the 2023 Review, which should become fully live before Christmas.
- 2.11. The BCE website would also be undergoing a phased minor refresh, to also incorporate modifications to meet new accessibility standards, the first phase of which should be completed by early January 2021, with a second phase to complete by the spring.
- 2.12. The Secretariat was working with Cabinet Office to ensure that a consultation portal and back-end database for management of consultation responses would be available in good time for the planned launch of consultation on initial proposals in early summer 2021.

Timetable

- 2.13. Subject to discussions on the policy paper later in the agenda, Commissioners confirmed they were content with the broad outline of the proposed timetable for the Review.

Risk register

- 2.14. Commissioners and Secretariat talked through the Risk register, and Commissioners agreed it was an accurate representation of known risks to the Review and the management of them.

Highlight report

- 2.15. Commissioners noted the content of the Highlight report.

3. Policies for the 2023 Review - Paper 2

- 3.1. Commissioners discussed their provisional policies together with the views of the political parties (and independent MPs) on specific matters that had emerged from the meeting with them on 26 November (summarised in the paper).

Timetabling

- 3.2. Commissioners recognised the concerns of the political parties to avoid clashes of secondary consultation public hearings (at least the lead hearing) with the crescendo of local election campaigns scheduled for many areas of England in April 2022. However, Commissioners were also keen to avoid conducting public hearings during the winter months (not least due to the risk of possible travel disruption). Commissioners therefore agreed to seek to bring forward the start of the secondary consultation period to late February 2022, and further seek to schedule early in the consultation period those lead public hearings that were to take place in areas also holding elections.
- 3.3. Commissioners also agreed to work with the Boundary Commissions for Scotland and Wales, to try and avoid clashes of lead hearing dates.

Publication and distribution of data and materials

- 3.4. Commissioners agreed the request of the parties to establish a 'technical liaison group' to ensure the transmission of data and other hard copy published material between BCE and the national parties would be as efficient as possible.
- 3.5. Commissioners considered the request of the parties that responses to the initial proposals consultation be published some weeks in advance of the start of the secondary consultation period. While recognising that this would be valuable to the parties in preparing counter-arguments to evidence provided by others, the

Commission noted that early release would only really be beneficial in respect of early public hearings, as there would be time to construct counter-arguments for later public hearings, and ultimately submit detailed counter-arguments in writing by the end of the second consultation period. The Commission was also concerned to avoid the excessive use of counter-argument and challenge in public hearings themselves, as it was firmly of the view that these hearings were fundamentally different in approach to the 'inquisitorial' style of local inquiries prior to 2011. Finally, Commissioners were concerned that publishing responses before the start of the statutory consultation period that they were the subject of may lead to a number of comments on those initial responses being submitted to the Commission before the consultation started: this would place those comments on an unclear legal footing as to whether they could or should be considered part of the statutory consultation, creating new potential for legal challenge to the process. Commissioners therefore agreed not to publish initial consultation responses prior to the formal start of the secondary consultation period.

- 3.6. Commissioners considered whether electorate data organised by 'prospective ward' (for the 31 English local authorities to which this would apply) should be released as and when each authority's data became available in such a form, or whether it should be released as a single combined package. On balance, the Commission agreed that the electorate data for 'prospective' wards should be released in a single package as far as this was possible: this would most likely be at the time of publication of the initial proposals, although if all the data was available significantly earlier than that, the Commission would look to publish it all at an earlier date.
- 3.7. The Commission considered the request of the parties to be somewhat more open to splitting of wards, and substitution of a reasoned basis of such a split that was simply that it would enable greater adherence to the statutory factors. Commissioners agreed that they were prepared to be more open minded to splitting of wards, including being prepared to potentially propose some in their own initial proposals. However, Commissioners agreed that wards should remain the fundamental building blocks of constituencies, with ward splits being resorted to only in exceptional cases, for compelling reasons, and if proposed in multiple cases there should be a consistency of approach. Commissioners did not feel that a simple reasoning of 'to facilitate greater adherence to the statutory factors' would be sufficient, noting that the statutory factors in this context would often pull in the direction of opposing options (e.g. in cases of existing constituencies that crossed local authority boundaries). Commissioners agreed to consider some revised/additional wording for the reasoned basis on which a ward split would be considered, and also agreed that the published 'Guide to the Review' should contain some worked examples of where the Commission has recently been prepared to propose a split ward and the reasons for that.

Declarations of political affiliation

- 3.8. While noting the value of knowing that a representation was being made from a potentially political perspective, Commissioners did not feel that it would be appropriate to require speakers at public hearings to declare any existing or historic

political affiliation. In addition to being a requirement that would not apply to written representations, Commissioners were also concerned that such a requirement would breach data protection requirements, as an individual's political views are considered 'personal data'.

Other policy areas

3.9. In other respects, Commissioners agreed to take forward their pre-existing and provisional policies, as set out within and in the Annex to the paper.

4. Assistant Commissioner recruitment - Paper 3

4.1. Commissioners agreed that 18 Assistant Commissioners (ACs) should be recruited, on the basis of two ACs being assigned to each region.

4.2. Commissioners agreed that the fee rate for ACs should remain at £350 per day.

4.3. Commissioners agreed the details of the process and prospective timetable for the recruitment, including the locations for placement of the vacancy advert, and the use of GRS for receipt and initial sift of applications.

4.4. Commissioners agreed the composition of the interview panel proposed in the paper, with Sarah Hamilton likely to be the Commissioner chairing the panel (noted that she would be unavailable 12-14 April).

4.5. Commissioners had some minor comments on the draft selection criteria, which they agreed to email to the Secretariat.

5. Any other business and next meeting

5.1. The Deputy Chair noted, in his capacity as President of the Upper Tribunal Immigration and Asylum Chamber, he had been judicially reviewed and on 20 November 2020, judgment was handed down finding that certain paragraphs of a Judicial Guidance Note on Covid arrangements were unlawful. While the Deputy Chair noted the judgment did not have any bearing on the Commission, he considered it should be put on the record in any event.

5.2. Commissioners agreed the next meeting should be on Monday 8 February 2021, with papers to include a draft 'Guide to the 2023 Review' and a paper on the Commissions equalities duties.