

The Constitution Unit

**Quinquennial Review
of the Local Government Commission**

Prior Options Study
by Robert Hazell

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Quinquennial Review of Local Government Commission

Executive Summary

Scope of the review

1 The review has addressed three questions:

- are the functions of the LGC still necessary?
- if so, are they best undertaken by the LGC or some other body?
- are there additional functions which the LGC could undertake?

It was guided by an Advisory Group with representatives from the LGC, LGA, and sponsoring departments.

Are the functions necessary?

2 Yes. The functions are still needed:

- **structural reviews** are necessary, to ensure the pattern of local government adapts to modern requirements of service delivery, while remaining responsive to local needs
- **boundary reviews** are necessary, to ensure that local authority boundaries adjust to changes in human and physical geography
- **parish reviews** are necessary, to allow for the creation and alteration of parishes
- **electoral reviews** are necessary, to prevent electoral imbalances growing to an unacceptable degree as a result of movements in population (para. 3.1)

3 The LGC has a fundamental constitutional duty to conduct **electoral reviews**: this is an ongoing obligation which the Commission must undertake without ministerial direction. Maintaining the fairness of electoral arrangements at the local level is its core function and the basis of its core staffing. Ministerial directions to perform any of the Commission's other statutory functions should be accompanied by sufficient resources (paras 3.3-4).

Structural reviews

- 4 The LGC can be asked to undertake additional functions, such as individual structural and boundary reviews, or structural reorganisation in one region: but only so long as
- the programme of periodic electoral reviews is not put at risk or further delayed
 - it is given clear policy guidelines, so that its task is the technical one of defining boundaries rather than the political one of developing policy (para. 4.6).
- 5 Any future **nationwide** structural reorganisation of local government should not be given to the LGC, because of the disruption to its work and the inevitable political flak it would attract. But neither should it be undertaken direct by government without independent advice. Advice on wholesale structural reorganisation should come from an ad hoc commission created for the purpose which can look at powers, functions, services and governance as well as structure (paras. 4.4-5).
- 6 This last recommendation is finely balanced. I accept that there is no difference in principle between structural reviews on a one off or regional basis (point 4) or nationwide (point 5); but there is a big difference of scale, and of political controversy. I also accept that new electoral arrangements would have to be made for the new authorities following any wholesale reorganisation: this task would fall to the LGC.

Need for independent Commission

- 7 Electoral reviews must be carried out by an independent commission to preserve the fairness of the electoral system and to maintain 'one vote, one value'. Electoral reviews should not be privatised or contracted out (para. 6.2).
- 8 The independence of the LGC derives from
- Regular electoral reviews carried out without ministerial direction
 - The independent voice and judgement of politically neutral commissioners
 - The expectation that ministers will implement the LGC's electoral recommendations without amendment (para. 7.1).

Are these functions best undertaken by the LGC or some other body?

9 The LGC is the most appropriate and cost effective body to carry out electoral reviews and the other functions listed in point 2 (para 8.1). (This is subject only to the proviso about nationwide structural reviews : point 5).

10 But in recent years the PER programme has been seriously delayed by the structural reviews. The current round of electoral reviews is unlikely to be completed before 2005; but might be finished as early as 2003 with additional resources. The delay is causing increasing concern to local authorities, and is of concern to government: because of the need for up to date local government wards as the building blocks for the next parliamentary review, and because of the government's interest in annual elections which might have major implications for the PER programme of the LGC.

11 I was therefore encouraged by the Advisory Group early in the review to go beyond my strict terms of reference and to consider a range of options for better coordination between the LGC and the Parliamentary Boundary Commission (PBC), from closer working relationships to full merger (para 10.3).

12 Discussions in the Advisory Group identified three specific options for better coordination:

- to relax the 10-15 year electoral review cycle to allow the LGC to prioritise areas with the greatest electoral imbalance
- to postpone the start of the next parliamentary review and transfer resources to accelerate the LGC's PER programme
- to consider whether the totality of electoral review might benefit from full merger of the two Commissions (para 10.4).

These points are considered more fully in the sections which follow.

The relationship between the LGC and Parliamentary Boundary Commission

- 13 Better co-ordination between the LGC and the PBC is badly needed. The PBC uses building blocks fashioned by the LGC, in the form of ward and local authority boundaries. But the LGC's legislation does not allow it to have regard to the needs of the PBC; and the last 3 parliamentary reviews have all been conducted before the corresponding LGC review had finished (para. 9.7 and Annex E). This has meant the PBC building constituencies based on out of date ward boundaries; and having to go back subsequently to conduct interim reviews to update them.
- 14 The LGC's programme of PERs has fallen badly behind. The next parliamentary review is scheduled to start in 1999, six years before the LGC's current programme of PERs is due to be completed. Resources might be better deployed if the parliamentary review were delayed by two years and the LGC work were brought forward.
- 15 Rather than aim for a regular alternating cycle of LGC and PBC electoral reviews, it would be better to plan the LGC's programme of electoral reviews as a continuous activity (para 9.12). This would require legislation to relax the 10 to 15 year periodic requirement, which should be done as soon as possible. It would enable the LGC to prioritise those areas where electoral imbalance is worst; and to respond more flexibly to the concerns of local authorities and the PBC for updating (para 9.13).

Merger between the LGC and PBC

- 16 Looked at on its own, the LGC is an appropriate and cost effective body for its functions. But I was also asked to look at its functions having regard to those of other bodies in similar fields, notably the PBC. As a result this review has become a Prior Options Study of the PBC almost as much as the LGC. And the PBC faces more dramatic fluctuations in its work, not least because it has lost supplementary reviews, and with better coordination, should lose the need for interim reviews (para 11.1).
- 17 As a result the PBC could face periods of up to five years in between its main reviews with little work to do. One solution would be to redeploy the staff to help with the

LGC's electoral reviews. Taking the process as a whole, I believe there would be benefits in merging the work of the two Commissions. This would

- help spread the peaks and troughs in the cyclical reviews (especially for the PBC)
- improve efficiency and effectiveness, because the review teams would be able to share the same hard and soft intelligence
- enable more stable staffing with retention of knowledge and experience
- lead to staff cost savings
- offer greater variety of work for staff, and enhance their career opportunities
- be less confusing for the public (para 11.3).

18 Merger of the Commissions would require legislation (para 12.1). If the principle is accepted, DETR and the Home Office should agree an action plan and identify a project manager to plan the merger (para 12.4). The momentum generated by this review should not be dissipated.

19 For clear accountability and good administration the merged Commission should have a single sponsoring Department. But the sponsoring arrangements also need to fit with the allocation of Ministerial responsibilities. So long as these straddle the two departments, the Home Office and the DETR should be the joint sponsoring Departments of the merged Commission. To work effectively, some way must be found, under joint sponsorship, of reconciling Ministerial priorities and their consequences for funding. A classic NDPB arrangement with a fixed budget shared between the Home Office and the DETR might well not meet this requirement. Whatever arrangements are put in place, there will need to be a clear management statement and financial memorandum (paras 13.1-4).

20 The staff of the merged Commission could be civil servants on secondment, or independently recruited (as are the current staff of the LGC). Either model is acceptable in terms of the Commission's independence. The choice depends on which arrangement is likely to produce the best staff for the Commission's purpose. The Commission's staff could also include people on secondment from local government (paras 13.5-6).

21 The Commission's Chief Executive should be a fully devolved budget holder and accounting officer (para. 13.3).

22 The merged Commission could continue to supply the secretariat to the PBC for Wales. Alternatively, merger of the secretariats of the LGBCW and PBCW is an option which should be considered in the Welsh Office quinquennial review of the LGBCW to take place later this year (para 13.8)

Options short of merger

23 It would be possible to merge the secretariats without merging the two Commissions. This would also require legislation. It could deliver the benefits listed at point 15 above, but it would be difficult for the joint Chief Executive to reconcile the conflicting priorities of the two Commissions. That could only satisfactorily be achieved by full merger with the merged Commission agreeing a single corporate plan (paras 13.1-3).

24 In the absence of full merger, co-operation between the LGC and PBC should be achieved through regular meetings of the senior staff, occasional meetings of the commissioners, joint co-ordination of work programmes, and staff exchanges and joint training (para. 9.11). But none of this will be of much use unless the LGC has the legislative freedom to prioritise its PER programme to provide the up to date building blocks which the PBC needs (para 9.12).

Streamlining the electoral review procedure

25 Detailed study of staffing and working methods is for stage two of the review. At this stage I have two recommendations:

- The all or nothing power under Section 13(1) of the 1992 Act is an unnecessary constraint. The Secretary of State should be able to specify a review only in respect of structure, boundaries or electoral arrangements (paras 2.3, 5.2, 12.7)

- GIS (computerised mapping) offers potential benefits to all the agencies in the mapping and boundary review chain: local authorities, the LGC, DETR, the PBC, ONS, Ordnance Survey. The DETR should convene a working party to look at the potential of GIS, to identify the requirements of the different users, and to see whether a common specification could be agreed (para 16.3).

26 I have identified two issues to be explored further in stage two of the review:

- The balance between local authority and LGC input to electoral reviews. These should continue to be based on initial submissions by the local authority (para 15.5). The LGC should report on the proportion of local authority schemes which are accepted without amendment (para 15.3)
- The length of the LGC's reports. The LGC believe in the discipline of giving full justification for their reasoning. But the LGA and political parties should be asked whether they would prefer shorter reports (as in Scotland and Wales), giving faster throughput with less explanation (para 15.7)

Options for legislation

27 The most pressing need is for legislation to

- relax the requirement in Section 13(4) that the LGC must conduct an electoral review of each area every 10 to 15 years
- substitute a requirement imposing a general duty on the LGC to conduct a continuous electoral review programme, coupled with a statutory target for maximum electoral imbalance
- relax the requirement in Section 13(1) that directed reviews must encompass structural, boundary or electoral changes.

If possible this legislation should be introduced in 1998-99 (para 12.6).

28 If it is agreed, legislation to merge the two Commissions should be introduced before commencement of the next general review of parliamentary boundaries (para 12.7). That suggests legislation in 1999-2000, if the start of the parliamentary review can be delayed until 2001 (see point 14).

Implications of wider constitutional reform

29 I have been asked by the Advisory Group to include an analysis of the wider constitutional changes in hand or under consideration which might impact on the work of the PBC and LGC. Some might add to and some might subtract from their work:

- PR for Europe has removed supplementary reviews from the PBCE (para 18.1)
- PR for Westminster might still require a PBC, which might have to conduct a rapid boundary review to implement the change; thereafter its task would be less contentious (paras 19.3-4)
- PR for local government might still require wards to be defined, but this could be left to local authorities if warding no longer affected electoral outcomes (paras 3.2, 20.1-2)
- the introduction of regional assemblies could require three tasks of the LGC:
 - structural reviews to introduce predominantly unitary local government (para 22.3)
 - supervision of regional referendums (para 22.3)
 - division of the region into electoral districts (para 22.2)
- reform of the House of Lords is unlikely to require a boundary review exercise (para 24.4)
- the new Greater London Authority will require the electoral division of London (1998), and in time elected mayors may require the division of other cities into new electoral districts (para 21.1)
- Lord Hunt's Bill (1998) will not lead to significant changes in the number of councillors (paras 25.2-3)
- annual elections may require the LGC to create three or even four-member wards as a regular feature of PERs (para. 26.1).

Additional functions for LGC: advising on local democracy

30 In addition to maintaining the electoral fabric of local government, the LGC could in time be given a role in advising on local government's electoral arrangements. This

could include advising on the electoral rules, electoral register, measures to increase voter turnout, local and regional referendums, and control of local election campaign expenditure (including for directly elected mayors) (paras. 28-29).

Glossary

AMS	Additional member system
GIS	Geographic Information Systems (computerised mapping)
GLA	Greater London Authority
LGA	Local Government Association
LGBC	Local Government Boundary Commission for England (1972-92)
LGC	Local Government Commission for England (1992→)
LGBCS	Local Government Boundary Commission for Scotland
LGBCW	Local Government Boundary Commission for Wales
PBC	Parliamentary Boundary Commission for England
PBC(S)	Parliamentary Boundary Commission for Scotland
PBC(W)	Parliamentary Boundary Commission for Wales
PER	Periodic electoral review
Structural reviews	To recommend whether two tier local government should be replaced by a unitary authority
Boundary reviews	To assess whether there should be changes to the boundaries of a local authority area
Parish reviews	To recommend changes in parish boundaries (including the creation, alteration or abolition of a parish)

1 Introduction

- 1.1 This review was announced by the Minister for Local Government, Hilary Armstrong MP, on 17 November 1997 in the following terms:

“We have today set up a finance, management and policy review of the Local Government Commission for England (LGC), as part of a programme of reviews of non-departmental public bodies.

This review will be conducted in two stages. The first will be a ‘prior options’ study focusing on whether the functions carried out by the LGC are needed and, if so, whether those functions are best undertaken by the LGC or some other body...”

- 1.2 Detailed terms of reference for the prior options study are at Annex A. They can be reduced to three questions:

- are the functions of the LGC still necessary?
- could any of the functions be better undertaken by another body?
- are there additional functions which the LGC could appropriately be asked to undertake?

- 1.3 The report addresses each of these questions in turn. It is based upon the usual sources of information and advice:

- written evidence from some 27 organisations and individuals (Annex B)
- interviews with all the key stakeholders
- a survey of the official and academic literature (Annex C)
- an Advisory Group established by the sponsoring department, the DETR.

- 1.4 Two special features deserve mention. First, the terms of reference specifically invite me to consider the relationship between the LGC and the Parliamentary Boundary Commission for England (PBC). While the primary focus of the report is on the work of the LGC, my interviews and background reading have included a fairly detailed

inquiry into the work of the PBC, whose sponsoring department (the Home Office) was also represented on the Advisory Group. I am very grateful to the Board members and staff of both Commissions, who have approached this review in a positive and open-minded way, and who have been unfailingly helpful in providing information. I am also very grateful to all those who have submitted evidence and guided me round the relevant literature, both here and overseas. Copies of the written evidence can be requested from: Mrs M. A. Crosby, Local Government Sponsorship, DETR, Eland House, Bressenden Place, London SW1E 5DU (Telephone 0171 890 4254).

- 1.5 A second feature is that this review takes place at a time of unprecedented constitutional change and initiatives to enhance local democracy, which will affect the work of both Commissions. I have been encouraged by the Advisory Group to take account of these changes, in so far as their effects can be foreseen, and a separate section of the report is devoted to the changing constitutional context.

2 Functions of the Local Government Commission

- 2.1 The LGC was established by the Local Government Act 1992 to review and make recommendations to the Government on whether there should be changes to the structure of local government, the boundaries of individual local authority areas, and their electoral arrangements. It has four main functions:

- **structural reviews**, to establish whether unitary or two tier local government would better serve the local community
- **boundary reviews**, to assess whether there should be changes to the boundaries of a local authority area, for example to reflect new settlements
- **parish reviews**, to recommend changes in parish boundaries (including the creation, alteration or abolition of a parish) and consequential changes in electoral arrangements
- **electoral reviews**, to reduce electoral imbalances within local authority areas.

- 2.2 The Secretary of State may direct the Commission to undertake reviews under Section 13(1) of the 1992 Act, and the Commission is required to make recommendations to him on whether or not there should be changes to a local authority's **structure, boundaries and electoral arrangements**. He may also direct the Commission to review **parish arrangements** (Section 13(1A) of the 1992 Act, introduced by the Local Government and Rating Act 1997). The only work which the Commission must carry out regardless of any direction is the periodic electoral reviews. These must be carried out periodically of each local authority area (Section 13(2)) so far as practicable 10 to 15 years after the previous electoral review.
- 2.3 In all the Commission's work, it has a duty to have regard to the terms of any guidance from the Secretary of State, and to observe two statutory criteria: "to reflect the identities and interests of local communities" and "to secure effective and convenient local government". In any directed review (other than parish reviews) the LGC is obliged to make recommendations in respect of structure, boundaries and electoral arrangements. Under Section 13(1) the Secretary of State cannot specify what type of review the Commission is expected to undertake (for example, directing a review only of the structure, or the boundaries of an area). This all or nothing power is a handicap to the Secretary of State and the Commission.
- 2.4 With the exception of structure, these functions are broadly the same as those of the LGC's predecessor, the Local Government Boundary Commission (LGBC); but its early history has been very different. Whereas the LGBC began with a comprehensive programme of electoral reviews, from 1972 to 1980, the LGC's initial task was a major programme of structural reviews in the shire counties of England. These directed reviews took up all the LGC's time from 1992 until 1995, and required a big increase in resources and staff. During this process, the Commission undertook 61 separate reviews of county and district areas, and published over 120 draft and final recommendation reports, together with a number of overview reports.
- 2.5 As a result the Commission was not able to embark on a comprehensive programme of periodic electoral reviews (PERs) until March 1996, leading to a delay in some local authority areas of over 20 years since the previous electoral reviews. The programme

will embrace all 387 principal authorities in England. Since March 1996, reviews of 42 authorities have been completed; and a further 38 PERs are in various stages of completion. On the basis of the current throughput of approaching 40 reviews a year, the PER programme will not be completed before 2005. However, with the provision of additional financial resources, the Commission is planning to increase its throughput with effect from 1998-99.

2.6 The Commission has just completed a directed boundary review of Sefton. No parish reviews are currently in progress. They are now primarily the responsibility of district councils and unitary authorities, with the LGC only being brought in by the Secretary of State in cases of difficulty.

2.7 To carry out these functions the Commission employed an average of 30 staff in 1996-97 and spent £2.185m (1995-96 43 staff and £4m expenditure, and in 1994-95 nearly £8m expenditure, reflecting the heavy workload of completing the structural reviews). The Commission now has seven Board members appointed by the Secretary of State on three year terms. The appointment of five of the Commissioners will expire in July 1998.

3 Are these functions necessary?

3.1 The evidence which I received was unanimous that the functions performed by the LGC are necessary. I agree, and so I hope I may deal with this question shortly:

- structural reviews are necessary, unless the pattern of local government is regarded as set for all time. In fact the pattern and structure of local government in England in recent years has been far from static. There was London government reorganisation in 1965; the 1974 reorganisation of local government outside London; the abolition of the GLC and the metropolitan counties in 1986; and the Commission's own structural reviews between 1992-95. Although there is little appetite at present for further change, it is unlikely that the current pattern and structure will remain long unchallenged. There is felt to be unfinished business from

the 1992-95 reorganisation; and the Government's manifesto suggests that in any move towards directly elected regional assemblies, a precondition would be "a predominantly unitary system of local government, as presently exists in Scotland and Wales".

- boundary reviews are necessary, to ensure that local authority boundaries adjust to changes in human and physical geography (new housing estates, by-passes etc.)
- parish reviews are necessary, to allow for the creation, alteration or abolition of parishes, and changes to their electoral arrangements
- electoral reviews are necessary, to prevent electoral imbalances growing to an unacceptable degree as a result of movements in population.

3.2 It is worth adding that other developed democracies also engage in structural and boundary reviews; but electoral reviews are only found necessary in countries which use first past the post as the electoral system, and which favour single-member districts. Outside the English speaking world most substantial democracies use proportional representation with multi-member constituencies. Under such systems, population movements can be dealt with by varying the number of seats in an area rather than by changing its boundaries. The problem of defining electoral districts becomes of negligible political significance in terms of electoral outcomes. If local government in the UK were ever to adopt PR, the electoral review function of the LGC might well become redundant. It would depend on which system was chosen; and local authorities would probably wish to retain the tradition of ward councillors, which would still require the drawing of ward boundaries. But local authorities could define their own wards, which could be of unequal size if the electoral system were no longer first past the post: the PR electoral system would deliver a fair electoral outcome, and not the electoral quota of equal electorates in each ward.

3.3 In terms of **weighting the different functions**, those respondents who commented on this aspect all argued that electoral reviews should be the Commission's main function. In part this reflected concern at the delays caused by the structural review; but in part it reflected a deeper belief that the main purpose of the Commission (and the main

justification for its independence) is its constitutional role in maintaining the fairness of electoral arrangements at the local level.

- 3.4 That is implicitly recognised in statute, in that it is the one function which the Commission must undertake without ministerial direction. In future this should be more explicitly recognised as the Commission's core function: and the basis for its core staffing. Additional functions should only be given to the Commission by DETR so long as they do not disturb the continuous cycle of electoral reviews. If they do threaten to disturb that cycle, they must be accompanied by additional resources.

4 Must the reviews be conducted by an independent body?

- 4.1 Answers to this question varied depending on which of the LGC functions was in issue. In particular, serious questions were raised about the advisability of using an independent body for **structural reviews**. A number of respondents suggested that these should be done directly by central government; or that if central government needed independent advice, it should not use the LGC, but should establish an ad hoc commission for the purpose.
- 4.2 The difficulties attendant on the structural reorganisation of local government in 1992-95 are well known and well documented (for a selection of the literature see Annex C). Less well known is the final round of structural reviews of 21 districts in December 1995, on which the Commission received considerable positive feedback; but the shadow of the earlier reviews fell before them.

The Government's aim was to introduce a single tier of local government. In Scotland and Wales it succeeded in this aim: it did not use an independent commission, but Ministers ran the review and directed the reorganisation from inside the Scottish Office and Welsh Office. In England it was less successful: the LGC was given the lead role, and although it was given directions by Ministers, these allowed the Commission to recommend retention of the two tier system. After consulting local opinion, this is

what the Commission did in many counties, in whole or in part, although 46 new unitary authorities were created.

4.3 Any conclusions drawn from this exercise are bound to be contentious; but I must address the question whether any future structural reorganisation should involve the use of an independent body, and whether that body should be the LGC. On that question the following points are worth noting:

- local government reorganisation is intensely difficult, and requires a high degree of political will and determination to carry the process through
- there is no consensus within local government about the right structure and size for local authorities; and little evidence showing a strong relationship between size, efficiency and effectiveness
- while people in England have commented on the greater effectiveness of the outcome in Scotland and Wales, in both those countries there were demands for an independent commission to bring greater openness and neutrality to the process
- in Scotland in particular there were accusations of gerrymandering, not merely by political opponents but also by academics and other commentators
- an independent commission such as the LGC has to operate within clear parameters. It cannot be expected to decide major questions of policy. If the Government wanted to introduce unitary authorities across the board in England, it should have decided and declared that as a matter of policy, and charged the Commission with implementing that policy
- in some areas the Commission felt unduly restricted in not being able to make recommendations about local authority functions as well as structure: “the Commission has been acutely conscious of the fact that its remit extended only to structure, and that it had no standing with respect to the powers of local authorities, their finance and their internal management. If in the future there is to be a thorough-going review of the structure of local government in England, it will be essential for the other aspects to be included”.¹

¹ Local Government Commission: Report on the 1992-95 Structural Review (March 1995) para. 229.

4.4 The allegations of gerrymander in Scotland were serious, and still linger. There was also a belief in Scotland and Wales that the consultation process which preceded the reorganisation was something of a charade. From this I would advise that any future structural reorganisation of local government should involve the use of an independent commission. But if it is to be a wholesale reorganisation I do not believe the task should be given to the LGC. I say that for three main reasons:

- the structural reviews were a major diversion from the Commission's core task of electoral reviews. The Commission attempted to start a programme of electoral reviews in 1993, but that had to be abandoned later that year following the Government's decision to accelerate the structural review. If (as I recommend below) the electoral reviews are put on a more regular basis which is synchronised as much as possible with the cycle of parliamentary reviews, that regular cycle needs to be protected from disruption and the Commission should not be overloaded with additional tasks
- the 1992-95 reorganisation seriously damaged the credibility of the LGC in the eyes of local government. Its reputation should not be put at risk in this way
- structure and boundaries cannot satisfactorily be considered in isolation from the functions, finance, governance and internal organisation of local authorities. This is not a new criticism: previous inquiries into local government (Layfield into finance, Widdicombe into governance) have been criticised for looking at only one dimension. But structure cannot be looked at simply on a territorial basis. It needs to have an understanding of service delivery, the new strategic and scrutiny roles of local authorities, and their relations with other public services (e.g. the links between Social Services departments and Health Authorities to deliver Care in the Community).

4.5 There are really three separate tasks in any major structural reorganisation of local government: devising the policy which is to inform and guide the reorganisation; implementing the reorganisation; and revising the electoral arrangements for the new authorities created by the reorganisation. The LGC could cope with the last two tasks, but not the first. The LGC could cope with limited structural reviews if given clear guidelines (see below). If there is ever a wholesale reorganisation on the scale of the

structural reviews of 1992-95 then the lead role should be given to an ad hoc commission, like the Redcliffe Maud or Wheatley Commissions. Such a body would be better equipped to undertake the first task, looking at powers, functions, services and governance as well as structure: and if required it could undertake the second task, of implementing the reorganisation, take the inevitable political flak and be dissolved at the end of the exercise.

4.6 But the more likely scenario in the near future is one-off structural reviews, or limited structural reorganisation in one part of the country: for example, in a region which wanted to move to a regional assembly, but needed first to put in place a “predominantly unitary system of local government”. Here it would make little sense to create a new Commission specifically for the purpose. The task could be given to the LGC, but only so long as

- it was given sufficient resources so that the continuing work of periodic electoral reviews was not put at risk
- it was given clear policy guidelines within which to operate, so that its task was the technical one of defining boundaries rather than the political one of developing the policy. The 1992 Policy Guidance to the Commission stated “the Government does not wish to impose a national blueprint for reform, or to require the wholesale abolition of either districts or county councils”. That was too open ended, and left the Commission with an impossible task. Any government in the future which wishes to introduce unitary local government must have the courage to say so, and must specify a blue print, spelling out clearly its concept and optimum size for a unitary authority; and the criteria for any exceptions, if ‘predominantly’ means that some two tier structures may be allowed to remain.

5 Boundary reviews

5.1 Some boundary reviews are relatively minor. Where they can be dealt with by agreement between local authorities (for example, following realignment of a road which forms the boundary), there should in theory be no need for the Commission to

get involved. There could be a procedure similar to that for parish reviews, allowing local authorities to submit a draft Order for a minor boundary change direct to the Secretary of State. The Commission says that agreement between local authorities is rarely forthcoming, even in apparently minor cases; but even if only a few cases are affected a change in the law to streamline the procedure might be worth pursuing.

5.2 Other boundary reviews are difficult and controversial exercises and involve a blend of boundary and structural reviews. An example is the recent review of Sefton, where the Commission found the problem lay as much in the governance and internal management of the authority (illustrating the third point in para 4.4), and devoted a lot of Commissioner and staff time to the review. The blend of boundary and structural reviews is inevitable under the present legislation, because once the Secretary of State has directed a review, the Commission is obliged to make recommendations in respect of structure, boundaries and electoral arrangements. It is thus possible for large towns to seek to reopen their bids for unitary status under the guise of a boundary review.

5.3 There is potentially a large amount of unfinished business from the 1992-95 reorganisation. Councils such as Norwich and Northampton are still pressing for unitary status; and if they were successful, it would be difficult for Ministers to resist the pressure from 15 to 20 others. These have formed a group (the 'Local Governance Review Group') of 18 district councils to press for more unitary local authorities at district level.

5.4 Ministers show little inclination at present to yield to this pressure; they have declined to specify the criteria of what triggers a boundary review and they have told local government that they have more important priorities than a destructive re-run of structural reviews.² Finally there is also a lot of unfinished business simply in updating the boundaries of existing authorities which could prove to be substantial. The Local Government Boundary Commission had a number of boundary reviews under way which were simply stopped when the LGBC was wound up in 1992. Other boundary issues will have arisen since, but the LGC is protected from them because (unlike its

² Speech by Hilary Armstrong MP to Hampshire district councils, 15 January 1998

predecessor) it needs a direction from Ministers before it can undertake a boundary review. It is not known how many of these boundary reviews raise significant issues. Here my concern is about workload and about the backlog of boundary reviews which must have built up and which deserve the LGC's attention. It is certainly appropriate for the LGC to undertake the task. But the Commission must not be asked to undertake so many boundary reviews that the programme of PERs is delayed any further.

6 Electoral reviews

6.1 Electoral reviews are different. All the evidence I have received has argued that electoral reviews must be carried out by an independent body, to preserve the integrity and fairness of the electoral system: not simply at local government but also at the Westminster level, because the one may have a knock on effect on the other. The different nature of electoral reviews was recognised by the previous Government, who said to Parliament "it is important that the process for making local authority arrangements should be seen to be independent. For this reason, it is the Government's intention not to modify the substance of electoral recommendations from the Local Government Commission" (December 1996)³. I understand that the current government endorses this view.

6.2 I am satisfied that electoral reviews need to be conducted independently of government. But do they need to be conducted by an NDPB? Could the function be privatised or contracted out? I do not believe that it could, for the reason already given: that it needs to be independent and above reproach. A commercial organisation might be able to develop the necessary skills and expertise; but it would be unlikely to inspire the confidence of the public, local government or the political parties. The LGC review teams get information from local government because they are trusted. This is a function of government which has to remain within the public sector.

³ Rt Hon David Curry MP, Minister for Housing, Local Government and Urban Regeneration, HC Debate, 17 December 1996.

6.3 This is not to say that the Commission cannot contract out some of its ancillary services; and indeed some 30% of the Commission's financial resources are already expended on bought in mapping, report publication and specialist consultancy services. But the decision making itself cannot be contracted out to the private sector, nor the staff support which underpins it.

7 In what respect must the reviewing body be independent?

7.1 It is worth pausing on this question because the independence of the LGC is poorly understood. It suffers from the usual paradox of NDPBs whose board members are appointed by Ministers, and whose budget is set by the sponsoring department: how can they be seen as independent? In addition the LGC can be - and is - given directions and guidance by Ministers. But its independence derives from the following:

- its statutory duty to carry out periodic electoral reviews without any direction from Ministers
- the independent voice and judgement of its board members, expressed in Nolan's seven principles of public life (selflessness, integrity, objectivity, accountability, openness, honesty, leadership)
- the openness of all its procedures
- the expectation that Ministers will implement its electoral recommendations without amendment.

7.2 The LGC and its sponsoring division in DETR would add the employment of its own independent staff as a further factor which supports the LGC's independence. It is true that the LGC's staff are independently recruited and not part of the Civil Service. This may occasionally help in terms of its perceived independence, but I do not believe this is an important ingredient in the LGC's substantive independence. The staff of the Local Government Boundary Commissions in Scotland and Wales are civil servants, without any damage to their perceived independence. So are the staff of the Parliamentary Boundary Commission, and of the Parliamentary Ombudsman. The

independence of watchdog bodies comes from the Commissioners and not from their staff.

7.3 Resources is a more difficult issue. If the LGC were so starved of resources that its effectiveness was undermined, that would also undermine its integrity and its independence. But here too there is no universal principle. The salaries of only a few constitutional watchdogs (the judges, C&AG, Parliamentary Ombudsman) are paid direct from the Consolidated Fund. Other watchdogs (Neill Committee, Parliamentary Boundary Commission, LGC) are funded by departmental grant-in-aid. This may sometimes threaten their work programme, and in the case of the LGC it clearly has, in the delay to the PER programme. But I do not believe it would make much difference to transfer the funding source to the Consolidated Fund. The Treasury would then determine the annual budget instead of DETR. Constitutional watchdogs have to work within a set budget like other public bodies; if they feel this threatens the integrity or effectiveness of their operations they have the independent voice to say so.

7.4 It is instructive to look at the five principles which have been developed in Australia to help ensure the legitimacy of the electoral review process:

- *Timing of redistributions* - Provision is made for redistributions to be conducted with sufficient frequency to limit the development of malapportionment. In addition, the timing of redistributions is determined by law and cannot be manipulated for political advantage.
- *Constitution of bodies conducting redistributions* - Redistributions are undertaken by politically neutral and independent bodies.
- *Provision of public input* - The redistribution process is very public, and extensive scope exists for the views of interested individuals and bodies to be taken into account.
- *Criteria governing the drawing of boundaries* - The bodies undertaking redistributions are required to work in accordance with well-defined and reasonable criteria which are broadly supported across the political spectrum.

- *Automatic implementation of redistributions* - Once a redistribution has been made, it is not subject to veto at the political level, or by Parliament.”⁴

7.5 Most of these features are present in the UK, but not all.

- The timing of redistributions has been altered (most recently, in accelerating completion in 1992 of the fourth parliamentary boundary reviews). Since the war the period for parliamentary reviews has been set at 3 to 7 years, then 10 to 15 years, and now 8 to 12 years. Although set by law, it is liable to change: neither local government nor parliamentary reviews has yet settled into a regular cycle.
- The LGC when first appointed had three Commissioners with political backgrounds. It now has none.
- Neither the LGC nor the PBC works to targets defined in law about electoral equality⁵. (Overseas bodies generally work to specified targets). The statutory rules followed by the PBC have long been criticised for their internal contradictions and the ‘ratchet effect’ which causes the size of Parliament to increase with each review.
- The principle that a redistribution is not subject to amendment or veto is only a convention, not a rule of law; and in the case of the LGC it is not well understood, because the Secretary of State can - and does - amend or reject recommendations of the LGC in **structural** or **boundary reviews**. But before 1992 the Home Secretary always accepted the recommendations of the LGBC in **electoral reviews**; and the Secretary of State has continued to uphold this convention. When recently he amended the LGC’s recommendations following their review of West Lindsey, it was only in relation to the proposed change from one-third to all-Council elections. The LGC’s recommendation in relation to ward boundaries was undisturbed. So far as I have been able to discover the LGBC’s recommendations on ward boundaries were also invariably accepted.

⁴ M Maley, T Morling and R Bell: “Alternative ways of redistricting with single-member seats: the case of Australia” in I McLean and D Butler (eds) Fixing the Boundaries (Dartmouth, 1996).

⁵ The Commission’s statutory target is to aim for equality of representation in each ward of individual authorities: Schedule 11 to the Local Government Act 1972.

8 Is the LGC the most appropriate body for carrying out these functions?

8.1 To conclude this part of the report, I have no hesitation in recommending that the LGC is the most appropriate and cost effective body to carry out the functions in the 1992 Act. This is subject only to the reservations that

- any nationwide structural reorganisation should in future be given to an ad hoc commission (para 4.5)
- merger with the PBC might be a more cost effective way of carrying out all electoral reviews, from parliamentary constituencies down to local authority wards: this is considered in the sections that follow.

8.2 The only other candidate to whom the LGC's functions might be transferred is the Audit Commission. I raised this in my interviews. No one supported giving functions of the LGC to the Audit Commission, and a number argued against: on the grounds that it would conflict with the Audit Commission's current functions; that the Audit Commission risked being overloaded; and that it would not welcome the role. I do not pursue it further.

9 Scope for closer co-ordination between the Local Government Commission and Parliamentary Boundary Commission

9.1 Nearly half the submissions I received have recommended some form of merger between the LGC and the PBC. Before addressing the case for merger, it is worth considering what can be achieved through better co-ordination of the work of the two bodies. This requires a brief account of the work of the Parliamentary Boundary Commission.

9.2 The Parliamentary Boundary Commissions were first established in 1944. They are advisory NDPBs currently regulated by the Parliamentary Constituencies Act 1986 and

the Boundary Commissions Act 1992. There are four separate commissions for England, Scotland, Wales and Northern Ireland. Each is nominally chaired by the Speaker, but effectively chaired by the Deputy Chairman, who is a High Court judge appointed by the Lord Chancellor.⁶ The PBCE has two other members (one appointed by the Home Secretary, one by the Secretary of State for DETR). The English and Welsh Commissions share a secretariat supplied by the ONS, although a Home Office official is Joint Secretary of the Commission. The secretariat is presently down to six staff, with a notional budget in 1996-97 of £904k; but at the peak of work on the fourth general review in 1993-94 there were 36 staff, with annual expenditure of £2.4m. The governance and accountability and reporting arrangements of the Parliamentary Boundary Commissions and the Local Government Commissions for England and Scotland are summarised in the chart at Annex D.

9.3 Unlike the LGC, the PBC has only a single function of conducting electoral reviews, which are of three kinds:

- **general or periodic reviews**, to be conducted every eight to twelve years
- **supplementary reviews**, to define the boundaries of European Parliament constituencies
- **interim reviews**, usually caused by changes in local authority boundaries following the work of the LGC.

9.4 The supplementary reviews will disappear following the change of electoral system in the European Parliamentary Elections Bill which is currently before Parliament. That has left a major gap in the PBCE's work programme, which will enable it to conduct interim reviews originally scheduled for 1997.

9.5 Although the electoral review function is essentially similar, there are a number of differences between the approach of the LGC and the PBC:

- the period of the PBC's cyclical reviews is now every eight to twelve years, while the LGC is meant to conduct PERs every ten to fifteen years

⁶ In Scotland and Northern Ireland, the Deputy Chairmen are appointed by the Lord President of the Court of Session and the Lord Chief Justice of Northern Ireland respectively.

- the PBC submits a single report on the whole of England at the end of its periodical reviews. The LGC submits reports on local authority areas as it goes along
- the PBC starts a review by publishing its own draft recommendations; the LGC begins with a process of consultation in which local authorities and others are invited to draft proposals for the LGC.
- the PBC holds public local inquiries presided over by Assistant Commissioners drawn from a panel of barristers, while the LGC holds occasional public meetings (it has no power to hold inquiries), and uses retired local government officials
- the LGC is a free standing organisation, with its own directly recruited staff, while the PBC secretariat is staffed by civil servants and housed and supported by ONS
- the PBC experiences bigger peaks and troughs in workload, because it has fewer tasks to fill the gaps in between the general periodical reviews
- the LGC's annual grant in aid is set by the DETR; the PBC is also funded by grant in aid (on the Home Office vote), but it is not cash limited.

9.6 But the differences should not be exaggerated. In particular, there is a misapprehension that the LGC is a less independent body because the Secretary of State can issue it with directions, and can modify its recommendations. But this is only in relation to structural reviews. The electoral review function of the LGC must be carried out periodically, regardless of any direction by the Secretary of State, and Ministers do not vary the LGC's recommendations about electoral arrangements. In these two respects the LGC and PBC enjoy the same degree of independence.

9.7 The case for better co-ordination is mainly functional. The PBC uses building blocks fashioned by the LGC, in the form of ward and local authority boundaries. (The basic building block is the ward: increasingly the PBC finds it has to cross local authority boundaries, and with the growing number of unitary authorities it will have to do so even more in the future). It is clearly desirable that the PBC should use up to date local government boundaries wherever possible; but the two sets of reviews have never been synchronised. The chart at Annex E shows how the last three parliamentary general reviews have all commenced before the corresponding local government

electoral review had been completed; and the fifth parliamentary review will encounter the same difficulty. In the evidence submitted by the PBC

“the present position is that we propose to start our Fifth Periodical Review in February 1999 with an end date of 2005, but, with existing resources the LGC will not complete their new warding structure until 2005/2006, and, for practical reasons, we will not be able to take into account their new wards completed after about 2003/2004. Our final recommendations for some areas will therefore be based on the new warding structure, but, for other areas, it will be based on the current warding structure. [Some of the wards will by then not have been reviewed for 20 to 25 years]. We see that as a fertile ground for dissatisfaction and for the need for subsequent interim reviews”.⁷

9.8 There is also difficulty in the shape and size of some of the wards created, which the LGC might design differently if it were allowed by statute to have one eye to the needs of the PBC. The PBC had this to say about the building blocks which it inherited:

“2.26 We decided...that we should use district wards as our building blocks... and that we should resist proposals that split wards between constituencies. Division of wards would be likely to break local ties, disrupt local party political organisations and confuse electors...

2.27 There were, however, three problems which we experienced in using wards:

- in some areas, particularly in some metropolitan counties and some London boroughs, the large number of electors in each ward made them less effective in building constituencies...
- the number of wards may not divide equally between the required number of seats
- geographically large wards or oddly shaped wards...” (PBC Report on the Fourth General Review of Parliamentary Constituencies, April 1995).

The difficulty of large wards might become much greater if the government’s proposals for annual elections were to result in the creation of many more three-member wards.

9.9 Finally, there is a difficulty in terms of public perception. A number of people have commented that the overlapping reviews caused confusion to the public. Again in the words of the PBC’s report on their last general review:

⁷ Letter from the Deputy Chairman dated 9 December 1997. My insertion in parenthesis.

“1.24 Many people were undoubtedly confused because the well publicised review of the structure of local government in non-metropolitan counties throughout England by the Local Government Commission was, for a long time, running in parallel with our review. People argued that our review should have been postponed until after decisions on re-structure, or should have incorporated the recommendations for re-structure in our proposals, neither of which we were able to do. In some cases they mistakenly believed our review was part of the re-structure review”.

9.10 Discussions have taken place over the last couple of years between the two Commissions at official level on how their review programmes could best be phased. Although desirable, synchronisation may prove hard to achieve and then to maintain. Some have argued that legislation would first be required to bring the review periods (PBC 8-12 years, LGC 10-15 years) in to line. Although desirable in due course I do not see that this need be an obstacle. Both bodies could aim as a matter of policy to conduct PERs at ten year intervals, and so run on the same cycle. But other difficulties may prove harder to overcome:

- both Commissions are scheduled to complete their next periodic electoral reviews in 2005. The PBC will then aim to complete its next sixth review by 2013-17. To have fully up to date ward boundaries for the PBC to work on, the LGC would need to embark immediately after 2005 on a further round of PERs, for completion by around 2010.
- to get in synch and stay in synch both bodies would need not only to work to the same ten year cycle, but to take the same amount of time to complete their respective reviews. The LGC's current programme of PERs will take ten years; the PBC's next review is scheduled to take five to six years. For the LGC to complete a review programme in five years would require it to double its throughput to 80 reviews a year.
- if this is unachievable, for resource or other reasons, the alternative would be for the LGC to leapfrog unevenly with the PBC on a longer cycle: alternative cycles are illustrated in Annex F.
- there is risk of a convoy effect. The more processes are chained together, the greater the risk that the convoy will move at the pace of the slowest link in the chain (with knock on delays if e.g. there is a case of judicial review). So it may be

unwise to chain the parliamentary reviews too closely to local government reviews: they need the flexibility to work round delays in the local government process.

- 9.11 Synchronisation, however desirable, may prove to be something of a chimera. It is inevitable that there will be unpredicted perturbations to the cycle of work and therefore the maintenance of the proper sequence of work will always be problematic. If it is accepted that perfect harmonisation of review cycles is unlikely to be achievable, then sensible co-operation between the two bodies may be the best that can be aimed at. This should be achieved through occasional meetings of the Commissioners, regular meetings of the senior staff, joint co-ordination of work programmes, and staff exchanges and joint training sessions.
- 9.12 This discussion is predicated on the assumption that ideally the two bodies should conduct reviews in an alternating cycle, with the LGC going first to fashion the building blocks for the PBC. On reflection I think it is a trap to feel that the LGC's reviews need to be conducted in a regular cycle. I have argued above (paras 3.3-4) that electoral reviews are the core activity of the LGC; I now believe they should be a **continuous** activity. The difficulty of the Forth Bridge approach in section 13(3) and (4) of the 1992 Act is that it is an unnecessary straitjacket. It ensures that no area gets overlooked in a regular 10-15 year cycle; but it forgets the purpose of electoral reviews, which is to ensure electoral parity. To achieve this some areas need reviewing more frequently than every 10 to 15 years, and others less so. At present the areas most pressingly in need of review have been waiting longest; the LGA have pressed for more flexibility in the statutory requirements to allow urgently needed reviews to be accelerated, and to take precedence over those where there is little population movement. It would be more sensible to have a continuous work programme of electoral reviews, which enabled the LGC to prioritise those areas where electoral imbalance is worst. To ensure that areas did not get overlooked, and that the programme as a whole did not fall too far behind, the LGC would need to be set a statutory target for maximum electoral imbalance. The DETR will need to consult about this, and to set a target which is realistic and achievable.

9.13 This could also help in terms of the relationship with the PBC. If the LGC had the task of **continuous** maintenance of the electoral fabric, rather than **periodic** maintenance, then one factor which it might more readily take into account in planning and prioritising its work programme could be the requirements of the PBC.

9.14 I did also enquire whether there might be merit in a combined simultaneous review, in which each county or region would receive a single visitation and be reviewed from top to bottom. (Or rather bottom to top: parishes → district wards → county divisions → district and county boundaries → Westminster constituencies). This would do nothing to even out the peaks and troughs in the workload of the two Commissions; but I wondered whether it would ease the task of local authorities and the political parties to assemble their evidence for a single combined review. However even with a combined review there would still need to be a sequential process, and there was little support for combined reviews from local government or the political parties. I have not pursued it further.

10 The growing interest in merger

10.1 I concluded in Section 8 that the LGC is the most appropriate and cost effective body for carrying out its functions, after having regard to other bodies to which its tasks might be transferred. But that is not the end of the story. In recent years the PER programme of the LGC has been delayed by the structural reviews of 1992-95. Whilst it is now back on target and is being accelerated by the injection of further resources in the coming financial year, the current round of reviews is unlikely to be completed before 2005; or 2003 if the injection of further resources continues.

10.2 This is causing increasing concern to local authorities, especially in London and the metropolitan areas, because their ward boundaries are now so badly out of date. But it is also of concern to government: because of the need for up to date local government wards as the building blocks for the next parliamentary review; and because of the

government's current consultation over a move to annual elections and possibly to wider introduction of multi-member wards.

10.3 I therefore thought it appropriate, and was encouraged by the Advisory Group early in the review to go beyond my strict terms of reference and to consider a range of options for better coordination between the LGC and the PBC, from closer working relationships to full merger.

10.4 Discussions in the Advisory Group identified three specific options for better coordination:

- to relax the 10-15 year electoral review cycle to allow the LGC to prioritise areas with the greatest electoral imbalance
- to postpone the start of the next parliamentary review and transfer resources to accelerate the LGC's PER programme
- to consider whether the totality of electoral review might benefit from full merger of the two Commissions.

It is to the case for merger that I now turn.

11 The case for merger

11.1 I began by enquiring into the case for merging the secretariats: not least because following a review by the Scottish Office Efficiency Unit in August 1996, the secretariats of the LGBC and PBC for Scotland are to be merged from April 1998.

11.2 The case for merger in Scotland was based on the following arguments:

- more stable staffing levels enabling the retention of knowledge and experience
- closer integration of the business processes
- direct staff cost savings.

11.3 These arguments all apply in England, and can be expanded as follows:

- both the LGC and PBC have had cyclical workloads with major peaks and troughs. These cannot be ironed out simply by better co-ordination. They can only be properly managed if in the downtime from one major review the same review teams can be deployed on another. That requires being part of the same organisation
- the peaks and troughs are particularly marked for the PBC. In Scotland the PBCS employs no staff in between periodical reviews: there is simply a watching brief held at grade 7 level. There should be no need for any work by the English PBC in between its general reviews. Supplementary reviews (for the European Parliament) have now gone; and with better co-ordination interim reviews should be unnecessary, if the PBC could work to the latest ward boundaries set by the LGC
- the reviews would be more effective, in terms of quality of outcome, because they would be based on the latest data; and more effective and efficient because the review teams would share the same hard and soft intelligence. Soft intelligence (about local ties, communities of interest, attitudes of local authorities and of the political parties) is as important as hard data in managing the process and developing acceptable proposals
- this knowledge and expertise could be more effectively retained in a merged organisation because of greater continuity, job opportunities, staff satisfaction and staff retention
- the public would be less confused if there were one organisation in charge of boundary reviews
- there should be cost savings, but these may not be significant: the Scottish Office review estimated direct staff cost savings of between 5 and 20%.

11.4 I mention the cost savings last, because they are not the main justification for the merger. Even if no cost savings resulted I believe that merger would be justified, in terms of better co-ordination, better quality outcomes, and more effective management of staff. I accept that looked at on its own, the LGC is an appropriate and cost effective body for its functions. But I have been encouraged to look wider, and to consider the functions of the LGC alongside those of similar bodies, notably the PBC. As a result this review has become almost as much a Prior Options Study of the PBC as of the LGC. The PBC faces more dramatic fluctuations in its work, not least

because it has lost supplementary reviews (para 16.1), and with better coordination, should lose the need for interim reviews.

- 11.5 As a result the PBC could face periods of up to five years in between its main reviews with little work to do. One option would be to close down the PBC in between reviews, as effectively happens in Scotland. The other, which I recommend, would be to redeploy the staff to help with the LGC's electoral reviews. I say this not simply because of the immediate need in the LGC for additional help (along the lines proposed in para 10.4); but because there should be a lasting improvement in effectiveness, because of the ability to share the same hard and soft intelligence within the one organisation. This should lead to better quality outcomes, and to modest efficiency gains.
- 11.6 This recommendation also accords with much of the evidence I have received. Ten of the written submissions recommended merger of the two Commissions; and five went further still, and recommended an Electoral Commission with functions going wider than electoral reviews. The arguments rested on the interdependence of the work of the two Commissions, the lack of coordination under present arrangements, and the greater effectiveness and coherence which could be brought to the task of boundary review if all the boundaries, from district wards up to Westminster constituencies, were fashioned by a single body.
- 11.7 It is only right to put the contrary view expressed by three people in their evidence, that total merger would be inappropriate because "the Commissions perform different tasks under different legislation. The nature and the frequency of the tasks are not the same". I can understand the reasons for this minority point of view, given the salience of the recent structural reviews. But putting those on one side, the task is essentially the same: of engaging in public consultation, understanding local ties and communities of interest, discounting special pleading, observing due process, applying statutory criteria and drawing boundaries. This common task could readily be performed by a single Commission with the same mix of experience as is represented in both Commissions now.

12 Implementing merger: the need for legislation

- 12.1 Merger of the two Commissions would require legislation. First Home Office and DETR ministers will need to agree in principle on the desirability of merger; and then agree a timetable to bring it about. Merger could be preceded by preparatory stages in which the Commissions work more closely together through the loan of staff and through cross-membership, before entering into full merger when the legislative time is ripe.
- 12.2 Whether there is time for the gradualist approach depends on the future tasks facing the two Commissions, which may change significantly as a result of the government's wider constitutional reform programme. That is explored in sections 17-27 of the report. One item is reasonably certain, and that is that the PBC will shortly have to embark on a wholesale review of parliamentary boundaries. This might run either from 1999 to 2005/6 (as currently planned); or from 2001 to 2005/6, if the start is delayed to give priority to the PER programme of the LGC; or it might conceivably need to be implemented in a much shorter timescale to introduce a new voting system for the House of Commons (see paras 19.1-2). Faced with this contingency, the government might take the view that the PBC should be protected from merger, so as not to be distracted before undertaking such a major task; or it might feel that the PBC needed strengthening in the number of its commissioners as well as the size of its secretariat, and that full merger would provide an opportunity to do this.
- 12.3 The PBC is limited to a statutory maximum of three Commissioners, which has been a constraint in recent reviews. Five to seven Commissioners would seem the right number for a merged Commission. It has also been a constraint that the deputy chairman of the PBC must be a High Court judge. The Lord Chancellor is increasingly reluctant to release judges for this kind of duty; and in 1996 there was a gap of six

months before a new judge was found. At the peak of the last periodical review the PBC held 22 meetings in twelve months, which was difficult to arrange around the judge's court commitments; and it was extremely difficult for him to find sufficient time to read the papers. I do not believe it is necessary for the Commission's neutrality that it be led by a judge; it could equally well be led by a former public servant, or distinguished academic, and the need for neutrality is sufficiently underlined by the convention that the appointment is subject to consultation with all the opposition parties at Westminster. But if it is felt essential to have a judge, then it would be better to have a retired judge, as in Australia and New Zealand.

- 12.4 It would be a pity if the focus and momentum generated by the quinquennial review were dissipated. If the government accepts the proposal for merger, then I should like to see a small working party formed to develop an action plan and identify a project manager to carry that recommendation forward. There is a lot that could be achieved in the interim by more effective coordination; but the coordination is more likely to happen if both Commissions sense that it is part of the build up towards merger.,
- 12.5 If the Commissions are to be merged, then Stage Two of the FMPR should include a staffing structure for the combined secretariat, on the lines of the Scottish Office Efficiency Unit Report of August 1996. The action plan will need to identify the steps which can be taken towards merger short of legislation; and the policy details for the legislation required to effect the merger. There is likely to be more than one legislative vehicle available, in forthcoming legislation from the DETR on local government, or from the Home Office work on electoral procedures. What matters is to have a set of legislative proposals ready to catch the next legislative bus.
- 12.6 The legislation could be introduced in phases. Most pressing, and preferably for legislation in 1998-99, is the need to give the LGC flexibility to prioritise its PER programme so that it can tackle the areas of worst imbalance first, and also take account of the needs of the PBC. Specifically, the legislation needs to:
- relax the requirement in Section 13(4) of the 1992 Act that the LGC must conduct an electoral review of each area every 10 to 15 years

- substitute a requirement imposing a general duty on the LGC to conduct a continuous electoral review programme
- substitute a substantive target of reducing overall electoral imbalance within each local authority to a maximum tolerance set by law.

The other respect in which greater flexibility is needed is to

- relax the requirement in Section 13(1) of the 1992 Act that directed reviews must encompass structural, boundary or electoral changes: the Secretary of State must be able to direct the LGC to look at one aspect, without triggering a comprehensive review.

12.7 Those changes are needed regardless of the decision on merger. If merger is agreed, legislation to give effect to it should be introduced before commencement of the next general review of parliamentary boundaries. This could be in 1999-2000, when it might be part of a wider Home Office package to improve electoral procedures, or to start to implement the recommendations of the Jenkins Commission by seeking legislative authority to hold a referendum. Any legislation to merge the Commissions should also:

- remove the requirement in Schedule 1 to the 1986 Act that the Speaker shall be the chairman of the four Parliamentary Boundary Commissions
- relax the requirement in Schedule 1 that the deputy chairman shall be a high court judge
- amend the rules for the redistribution of seats in Schedule 2 to the 1986 Act to meet the repeated criticisms from the PBC in its reports on previous reviews (see para 21.1).

12.8 To help build up good relations and to enable each Commission to get to know and respect the culture of the other, it would help in the interim to have one Commissioner sitting on both the LGC and PBC. This is about to happen in Wales, with the appointment of a member of the LGBCW to the PBCW. An opportunity will arise in England in July 1998, when a number of Commissioner appointments are due to expire on the LGC.

13 The mechanics of a merged Commission

- 13.1 There are three issues to be addressed as a consequence of merger: sponsorship, budgetary arrangements and staffing. The choice of lead sponsoring department lies between the Home Office or DETR. Ideally there should be a single sponsoring department, which provides the whole of the budget: so that resource, funding and policy responsibility all lie in the same department. But both departments retain a strong interest in the work of both Commissions: the Home Office because of its responsibility for the conduct of elections and electoral law, and the DETR because of its responsibility for the effective working of local government. Neither department is likely to cede sponsorship to the other; and I can see no alternative to joint sponsorship.
- 13.2 In effect this would be a reversion to the sponsorship arrangement which applied to the Local Government Boundary Commission until 1991. The LGBC was sponsored jointly by DoE and the Home Office, and its staff were supplied by both departments. The LGBC reported to the Home Office on electoral changes and to DoE on local authority boundaries and parish issues. A similar division could apply again today, with the division of the budget following the division of policy responsibilities. The Home Office would continue to be responsible for the parliamentary work of a merged Commission; the DETR would be responsible for funding its local government work. There would need to be a very clear management statement and financial memorandum, setting out the responsibilities of the respective Secretaries of State, Accounting Officers, Commissioners, chairman and chief executive. The management statement and financial memorandum produced by DoE for the LGC in August 1992 provides a good model. In addition one department should be in the lead for day to day sponsoring purposes, and there should be a single 'Fraser figure' nominated by both permanent secretaries to be responsible for the sponsoring relationship.

- 13.3 The relationship should be a very different sponsorship relation from that which exists between the Home Office and the PBC. That is confusing and irregular in a number of respects, some of which are detailed in the Home Office's own Quinquennial Review of the PBC (September 1996). The arrangement whereby the Home Office supplies a joint secretary to the Commission should be ended. The secretariat of the merged Commission should be run by a chief executive like the chief executive of the LGC and the chief executive should be a fully devolved budget holder and accounting officer.
- 13.4 There cannot be a fixed formula for dividing the budget between the Home Office and DETR, because their respective contributions will need to vary depending on the variations in workload between local government and parliamentary reviews. If there is a Corporate Plan agreed each year between the Commission and the two sponsoring departments it should be possible to apportion the funding requirement for the coming year and for the forward years in the PES planning cycle.
- 13.5 For the secretariat of the merged Commission the main question is whether the staff should be independent and separately recruited or civil servants on secondment, or a mixture of the two. The LGC secretariat believe that it helps to underline the Commission's independence that the staff are not civil servants. But as I have already argued (para 7.2) the independence derives from the Commissioners and not from the staff. The staff of several other constitutional watchdogs, including the Parliamentary Ombudsman, the PBC, and the secretariats of the Local Government Boundary Commissions for Scotland and Wales are all civil servants, without compromising the independence of the body.
- 13.6 Rather the choice depends on which arrangement is likely to produce the best staff for the Commission's purpose. This depends on factors such as the size of the organisation; whether it can offer satisfactory career progression and attract good candidates; and the degree of expert knowledge or professional training required. In the case of the merged Commission, there is the additional factor of peaks and troughs: the secretariat needs to be able to absorb and shed staff reasonably easily. A final recommendation on staffing should emerge from Stage 2 of this review, which should

look at the staffing structure of a merged Commission. Arguments in favour of the staff being civil servants include:

- the merged secretariat will be small (30 to 40 staff at most), and the civil service provides a bigger pool of talent to recruit from, and wider career opportunities
- it makes it easier to recruit additional staff on secondment to cope with fluctuations in workload
- for a team of this size it is more efficient to rely on central support services (personnel, accommodation, training) than to be self-sufficient.

The arguments against civil service staffing include:

- civil servants are increasingly reluctant to take posts on secondment without the promise of a return ticket
- civil servants are more expensive, because the acquiring body is charged VAT on the total staff cost of seconded civil servants.

Whichever model is chosen should not preclude the secretariat also taking people on secondment from local government. In the interest of good relations with local government, and good understanding of the workings of local government, I recommend that there should be a regular local government secondment programme.

13.7 If a Civil Service staffing model is chosen, the chief executive of the merged Commission should be free to recruit staff on secondment from throughout the civil service. It is likely that staff will come mainly from the three departments currently involved with the two Commissions: the ONS, which currently supplies the staff of the PBC; DETR, which is the sponsoring department for the LGC; and the Home Office, the sponsoring department of the PBC. But the recruitment pool need not be so limited: any civil servant should be able to apply.

13.8 One consequence should be briefly considered, and that is where merger of the PBC and LGC in England would leave the PBCs in Scotland, Wales and Northern Ireland. The answer is where they have always been, as separate bodies. I have already noted the proposal to merge the secretariats in Scotland of the PBCS and the LGBCS. In Wales the PBCW is currently supported by the secretariat of the PBCE. The main concern of the PBCW is that it should continue to receive the same level of support.

This could continue to come from the secretariat of a merged Commission in England; but there is in Wales an alternative merger option, which is merger of the secretariats of the LGBCW and PBCW. The same arguments about peaks and troughs and sharing intelligence apply in Wales just as they do in Scotland. The LGBCW is to undergo its own quinquennial review later this year. Merger is one of the options which should be considered, drawing on the experience in Scotland.

14 The alternative: merger of the two secretariats

14.1 It is only right to mention that I have not properly consulted the two Commissions about full merger, because the main option being pursued when I met with them was merger of the two secretariats. The only reservation to that proposition expressed at the time by the PBC was that the LGC was tainted by the structural reviews of 1992-95 and it would not want its own independence compromised. But that is becoming ancient history, and the LGC is a very different body from the Commission which conducted the structural review. If, as I have argued above (para 4.5), any wholesale structural reviews were in future given to an ad hoc commission, the PBC's concern should substantially be met: the prime function of a merged Commission would be electoral review.

14.2 The reason why merger of the two secretariats was pursued for much of the review was that it was hoped that an administrative merger of this kind could be achieved without legislation. But the legal advice from the Home Office and the DETR is that legislation would be required even to merge the secretariats. Both Commissions are creatures of statute, with different statutory arrangements for the appointments of their respective staffs. The staff of the PBC are appointed by the Secretary of State under Schedule 1 to the Parliamentary Constituencies Act 1986, while the staff of the LGC are appointed by the Commission itself under Schedule 2 to the Local Government Act 1992. The legal advice has identified two difficulties:

- merger would lead to an unlawful fettering of discretion of the appointing bodies, or someone other than the person authorised by statute effectively making an appointment
- the LGC could not appoint staff who might from the start be wholly engaged on the functions of the PBC (or vice versa).

14.3 The Advisory Group concluded that if legislation was required it would be better to go all the way and merge the two Commissions. Merger of the secretariats could deliver the benefits listed in para 11.3 above, but it would be difficult for the joint Chief Executive to reconcile the conflicting priorities of the two Commissions. That could only satisfactorily be achieved by full merger with the merged Commission agreeing a single corporate plan.

14.4 In the absence of full merger, cooperation between the LGC and PBC should be pursued through regular meetings of the senior staff, occasional meetings of the Commissioners, joint coordination of work programmes, and staff exchanges as I have recommended in para 9.11.

15 Streamlining the review procedure

15.1 I also enquired about the scope for streamlining the review procedure. This might take two forms: changes in procedure, and changes in technology - in particular, the greater use of computerised mapping (GIS). On the procedural front, there is not a lot of scope for improvement. Each PER currently takes around a year, and with four review teams in place from April 1998 the LGC is aiming to complete 40 reviews in 1998-99 and 50 reviews a year thereafter. The procedure is as follows:

Table 1: Periodic Electoral Review Procedure

Stage One - 12 weeks	Commencement of review and submission of proposals for changes (or no changes) to electoral arrangements
Stage Two - 8 to 12 weeks	Commission considers proposals, determines draft recommendations and prepares public

consultation report

Stage Three - 8 weeks

Commission publishes draft recommendation report and invites representations

Stage Four - 6 to 8 weeks

Commission considers representations, reaches conclusions on final recommendations and submits a final report to the Secretary of State.

15.2 To achieve a significant improvement in throughput with no increase in resources would require major changes in procedure. Four such changes have been proposed:

- to devolve primary responsibility for PERs to local authorities, leaving the LGC with an umpire role (as it now has with parish reviews)
- to remove one or more of the four stages of the review process
- to relax the LGC's target of a maximum of 10% overall electoral imbalance
- to adopt a less perfectionist approach to consultative documents and final reports.

15.3 **Assigning the task to local authorities** has the attraction of giving local authorities greater ownership of the review process, and focusing the Commission's expertise on the more difficult cases. But with reviews occurring only once every 10 to 15 years there is little expertise in local government, and few resources. The LGC has commented on the absence of proposals from some local authorities, and the poor quality of others, particularly in the early PERs. In the first round of PERs there was not a single case where the LGC felt able to recommend a local authority's proposal without amendment, but in more recent reviews a number of local authority schemes have gone through unchanged. The LGC attribute this to their more detailed guidance, and early and more careful briefing of local authorities. It would be useful if the LGC could monitor in their annual reports the proportion of local authority schemes which are accepted, as an indicator of local authority performance in electoral reviews. But it is unlikely that the LGC would ever be able to withdraw to the extent that it does with parish reviews. The underlying difficulty is that local government officers preparing proposals for change are generally working under political direction: it would be surprising if such proposals did not favour the interests of the governing party or the status quo.

- 15.4 More promising in terms of streamlining, but more centralising, would be to **drop stage one of the review process**, so that the Commission itself prepared proposals rather than inviting submissions from local authorities and others. This is the procedure followed by the PBC. It would ensure that re-warding proposals do not start with a plan produced by the governing party. (Research by Rallings and Thrasher is shortly to test whether this leads to bias in the Commission's recommendations).⁸ But the LGA are concerned that local authorities should be able to make initial submissions. The Commission's *Guidance and Procedural Advice* has only recently been developed and revised following extensive consultation with local authorities and others. And to save all the time in stage one the Commission's proposals would have to be prepared as a desk exercise in house. The Commission say they would still need to collect some basic information from each local authority; in particular population five year forecasts based on information about planning consents which would not be available elsewhere. The Commission also believe that stages 2 to 4 could take longer if the local authority had not had the preparation time in stage 1.
- 15.5 I would feel more confident in recommending that the Commission should initiate proposals if the Local Government Boundary Commission did so in Scotland or Wales; but they both follow the same procedure as the LGC in England, although the Scottish reviews take about nine months instead of a year. I therefore recommend no change, but subject to the findings of the Rallings and Thrasher research. If they disclose a systemic bias in favour of the governing party, then the procedure should definitely be reviewed.
- 15.6 **Relaxing the target of maximum electoral imbalance** would only buy short term gain, and store up long term trouble, because at the next review the imbalance to be rectified would be that much greater. Nor in my judgement is it politically acceptable

⁸ Colin Rallings and Michael Thrasher, University of Plymouth. "The Process and effects of electoral re-distributing in English local government". The PBC has been the subject of extensive academic research. This will be the first study of the LGC.

to relax the overall average imbalance by more than 5% to 10%, which is the target currently achieved by the LGC.⁹

- 15.7 Finally, the LGC could publish **more succinct reports**. Its draft recommendations and its final reports are significantly longer than the reports from the LGBCs in Scotland and Wales: averaging around 20 to 60 pages compared with 7 to 15 pages. The LGC set out in great detail the evidence and representations submitted to them, and the Commission's own reasoning before recording their conclusions. Stage Two of this review should probe whether reports with this level of detail are necessary; whether there is a trade-off between time and quality; and if so, whether the LGA and the political parties would prefer the Commission and its review teams to deliver faster throughput with less explanation.

16 Geographic Information Systems (GIS)

- 16.1 GIS offers potential benefits in time and cost, not simply for the LGC, but for all the agencies in the mapping and boundary review chain. The Ordnance Survey said in their evidence: "from a purely OS viewpoint, there are much more efficient ways of running topographically based reviews". The Ordnance Survey have digitised data on existing administrative and electoral area boundaries. They could provide that to the LGC in computerised form, but they currently provide paper maps. The LGC could in turn manipulate the computerised data, could supply it to local authorities, and could provide DETR with computerised maps to form the basis for their Orders implementing the LGC's recommendations. The computerised data could then go back to Ordnance Survey for the implementation of the Orders on their new maps; and be passed on to the PBC where they would use the new wards to build up their parliamentary constituencies. These, in turn, could be passed back in computerised form to Ordnance Survey and the local authorities.

⁹ LGC Corporate Plan 1997/98 p19 Fig. 7 'Improvements in Average Electorate Imbalance'. The PBC does not do quite so well, with one in six of its constituencies coming out 0more than 10% higher or lower than the electoral quota: Report on Fourth General Review (April 1995) para 6.3.

16.2 The PBC used GIS in their last general review from late 1992. It was a 'what if' rather than a 'modelling' system; but the secretariat confirmed that it enabled them to consider a larger number of alternative options in the same timescale than had been possible by traditional methods. The Local Government Boundary Commission for Scotland installed GIS software in April 1997, and report that it is already proving very powerful. Hitherto the LGBC(S) has had to ask local authorities for the number of electors within changed ward boundaries, and to wait up to a month for a reply. By making use of OS Landline digital mapping, Addresspoint and data from the electoral register it is now possible to identify and accurately count electors within areas defined on digital maps using the GIS application. This should also enable the LGBC(S) to initiate more schemes itself, instead of waiting for local authorities to prepare draft schemes.

16.3 The LGC sees clear benefits in moving towards GIS, and is planning an evaluation in 1998-99. The issues include having to decide between competing software (ArcView versus ArcInfo); the level of Ordnance Survey licence fees; and the fact that many of the cost savings will accrue to others in the chain, and not simply the LGC. I think there might be value in a small working party looking at the potential of GIS, to identify the different requirements of the different users; to see whether a common system or specification could be agreed; and to discuss the licence fee policy of the Ordnance Survey (the LGC, PBC and DETR are separately liable for digitised data licence fees). DETR should convene and chair the working party, because they are the sponsoring department for Ordnance Survey as well as the LGC.

17 The Changing Constitutional Context for the LGC and PBC

17.1 The preceding analysis is all based on the assumption that the core business of the LGC and PBC will continue as usual: that there will continue to be a need for periodic electoral reviews, and that the main task is to organise them in a more effective and efficient manner. But the last section has begun to hint at the major constitutional

changes which are in train, some of which might add to, and some of which might subtract from the work of both commissions. The purpose of the sections which follow is to assess the possible impact and timescale of these changes, starting with the work of the PBC.

18 PR for European Parliament Elections

18.1 I have already mentioned the impact of the change in the voting system for European Parliament elections. From 1999 there will be a regional list system, based on regions sharing the same administrative boundaries as the Government Offices for the Regions. There will be no need for a commission to divide the regions into electoral districts; and no role for a commission in redefining the boundaries of the regions if in future regional administrative boundaries should change. The PBCE has lost the whole of its supplementary review function: a function for which it had originally set aside the majority of 1996 and all of 1997.

18.2 In Scotland and Wales supplementary reviews will still be required by the PBCS and PBCW to determine the regional boundaries for the regional list members of the Scottish Parliament and Welsh Assemblies. These will be based on the old Euro-constituencies, and will continue to be made by aggregating Westminster constituencies. The task of aggregating the 40 Welsh constituencies into 5 regions will be done at the same time as the next periodical review.

19 PR for Westminster Elections

19.1 In December 1997 the Government announced the establishment of an independent Commission on the Voting System for elections to the Westminster Parliament, chaired by Lord Jenkins of Hillhead. The Commission is charged with devising an alternative voting system which is 'broadly proportional', and which can be put to a referendum in a run-off against first past the post. The Commission is expected to report in the autumn of 1998. The earliest possible date for a referendum is summer

1999, because holding the referendum would require legislation. More likely is a later referendum, perhaps at the time of the next general election in 2001/02.

19.2 Two aspects deserve mention. First is the question of public education for the referendums. Unlike the devolution referendums, there will need to be a major public education exercise about the technical properties and political consequences of the alternative system. In New Zealand the government established a non-partisan committee to oversee a publicly funded information campaign. Something similar is likely to be required here.

19.3 Second, the Jenkins Commission has been directed to have regard to maintenance of an MP - constituency link, so any new system is likely to retain constituencies. This may in turn require a boundary commission to define their boundaries; and it may require a rapid Boundary Commission exercise. The most rapid scenario of all would be a referendum in summer 1999 with a commitment by government to implement any change in time for the next election. That could be very challenging for the PBC, which took four years to conduct the last wholesale review of parliamentary boundaries.

19.4 In time the task of boundary definition could become less contentious, if other features of the electoral system ensure proportionality. In Germany boundary drawing causes little controversy because the additional members compensate for any partisan bias in the outcome in single-member seats. Both Germany and New Zealand redraw their boundaries in every parliament. The commission in Germany has to report within 15 months of a new parliament; the Representation Commission in New Zealand completes the task in 6 months (but in a country with a population the size of Wales).

20 PR for Local Government

20.1 This is not currently on the political agenda. The government has expressed no interest in PR for local government elections; and it is not one of the forms of experiment to be

permitted in Lord Hunt's Bill. But the Scottish Parliament and Welsh Assembly will be elected by PR; the new Greater London Authority may be; and interest in PR may grow as a result. It is quite possible that the Scottish Parliament will introduce PR for local government in its first term.

- 20.2 If England were to follow suit, the consequence could be to remove altogether the need for periodic electoral reviews of the kind conducted by the LGC; but it would depend upon the system chosen. In Northern Ireland following the introduction of STV for voting in local government elections, the district wards are no longer significant electoral or community units. They are amalgamated into groups of 5, 6 or 7 to produce District Electoral Areas which are now the basic units for local government elections. Their boundaries are defined by the Local Government Boundary Officer, an independent office holder appointed for each boundary review.

21 Greater London Authority

- 21.1 The Greater London Authority (Referendum) Bill confers a new role on the LGC in making recommendations on the electoral arrangements for the proposed new strategic authority for London. Any direction from the Secretary of State must first specify the total number of electoral areas and the total number of members. It will then fall to the Commission to recommend the electoral areas into which Greater London should be divided and the name of each electoral area.
- 21.2 The Bill is expected to receive Royal Assent by February 1998; and more detail about the electoral system should be included in the White Paper to be published in March. The LGC's GLA work is expected to commence after the referendum which is to be held in May 1998. Without knowing details of the electoral system and number of electoral areas it is difficult to predict how big the task will be. It will be high profile and could be politically contentious. It will also be a precedent for any subsequent experiments with elected mayors under the Hunt Bill: the procedures adopted by the LGC in Greater London may need to be applied elsewhere.

22 Regional Government in England

22.1 The government maintains an interest in regional assemblies, but not in the immediate future. In the introduction to the White Paper on Regional Development Agencies John Prescott said:

“...while there is popular demand, we are committed to further consultation on directly-elected regional assemblies. This may take time, just as the developments in Scotland and Wales have come about over time...”.¹⁰

22.2 If regional assemblies are introduced it is likely that they would adopt the boundaries of the Government Offices for the Regions; but, as with Greater London, there would then be a need to divide each region into electoral districts, a task which would probably fall to the LGC. There would also, under the manifesto proposals, be a requirement to introduce ‘a predominantly unitary system of local government’ in any region which wanted to have an assembly; and a requirement to hold a referendum.

22.3 The introduction of predominantly unitary local government would involve a structural review of local government in the region. I have argued above that this task could be given to the LGC, so long as it was given clear policy guidelines within which to operate (para 4.6). The requirement to hold a local referendum could also involve the LGC. At local level the poll would be organised by local authority Returning Officers; but they would require central guidance and supervision. This could come from the Home Office; from a Chief Counting Officer appointed for the purpose (as in Scotland and Wales); or from the LGC.

23 PBC Fifth Periodical Review 1999/2005

23.1 There are two points which deserve mention:

¹⁰ Building Partnerships for Prosperity, Cm 3814 (December 1997) p8.

- the difficulties which will be caused in many areas by the introduction of unitary authorities. At the last review the PBC for the first time breached Rule 4 (which enjoins the Commission to respect county and London borough boundaries) by crossing London Borough boundaries; next time it will probably be forced to cross county boundaries also.
- the need for the Rules to be amended before the next review. The PBCs have warned at every general review since the second (in 1969) about the ratchet effect in the Rules which causes the size of Parliament to increase at each review. The Home Affairs Committee added their own criticism in 1987. But this is not the only respect in which the Rules need amending. As the Secretary of the Commission has observed:

“Although probably the most pressing problem with the Rules is their effect in increasing the allocation of seats at successive general reviews, the Rules are overdue for amendment in several other respects. It is much to be hoped that the Rules will not survive in their present form until the next round of general reviews early in the next century.”

24 Reform of the House of Lords

- 24.1 The government’s manifesto stated: “... the right of hereditary peers to sit and vote in the House of Lords will be ended by statute. This will be the first stage in the process of reform to make the House of Lords more democratic and representative. ... A committee of both Houses of Parliament will be appointed to undertake a wide-ranging reiew of possible further change and then to bring forward proposals for reform”.
- 24.2 Legislation to remove the hereditary peers is likely to be introduced in 1998-99. Thereafter the timetable is unknown; as is the final form of a fully reformed House of Lords. It might continue to be appointed; or indirectly elected, with representatives of the devolved parliaments and regional assemblies.
- 24.3 Only if the Lords were directly elected might there be a role for a boundary commission. But not necessarily. The Plant Working Party, after rejecting AMS for the Lords, recommended that it be elected by regional lists. If that system were to be

adopted the same regions could be chosen as are now to form the basis for the regional list elections to the European Parliament (para 16.1).

- 24.4 All in all, it seems unlikely that the Lords will be directly elected; and unlikely that any electoral system for the Lords would require boundaries to be drawn by an independent commission.

25 Lord Hunt's Bill : Local Authority Governance and the Number of Councillors

- 25.1 Lord Hunt's Private Peer's Bill will enable local authorities to introduce experimental changes in the governance or internal management of their authorities. Changes can include:

- Executive mayors
- A cabinet system
- A lead member system
- Single party committees
- Single party advisory committees

A common feature of these models is that they delegate executive decisions to a subset of councillors, leaving the remainder with back bench scrutiny and community representation roles. In the longer term it might be possible as a result to reduce the number of councillors.

- 25.2 This is where Lord Hunt's agenda intersects with the responsibilities of the LGC. The LGC has power to recommend the number of councillors for each authority, but it has been conservative in its approach. It has issued outline guidance on the number of councillors (30 to 60 councillors for shire districts, 40-80 for metropolitan districts, London Boroughs and unitary authorities, and 60-100 for county councils). But it has generally been content to accept councils' proposals within these bands. The LGC has also issued a low key invitation to experiment:

“The Commission would also be prepared to consider innovative proposals in respect of council size, intended to facilitate the implementation of executive models of local authority management...”¹¹

25.3 No local authority has yet responded to this invitation. It may be difficult when the invitation comes only once every ten to fifteen years, at the time of the PER; and it may be that the LGC needs to lead rather than follow local government opinion. That raises much wider questions about the balance between central and local initiatives, and the balance between exhortation and compulsion in persuading local authorities to change their ways. Exhortation has largely failed in persuading local authorities to experiment with their governance and internal management; few councillors are likely to volunteer for experiments which involve a reduction in their numbers. The Audit Commission is also involved in this territory, and has tried (equally unsuccessfully) to persuade councillors to adopt a more strategic, scrutinising and performance measuring role. The Audit Commission has powers of persuasion only. The LGC could make change happen, through recommending changes in the number of councillors; but it would only be likely to do so with the backing of a government direction making clear that this was government policy.

26 The Government’s Agenda for Democratic Renewal: Annual Elections

26.1 Another proposal for reviving local democracy is the Government’s manifesto commitment that “to ensure greater accountability a proportion of councillors in each locality will be elected annually”. At present there is a patchwork, with electors voting once, twice or three times in local government elections over a four year period. The DETR Consultation Paper on Modernising Local Government (February 1998) sets out four ways of introducing more annual elections, with varying consequences for the PER work of the LGC. The most thorough, to enable each resident to vote every year, would require a massive re-warding of much of the country. The most minimalist,

¹¹ LGC: Periodic Electoral Reviews - Guidance and Procedural Advice (March 1996) para 20.

leaving electoral boundaries and the number of councillors unchanged, would involve no extra work for the LGC. More likely is the option of an evolutionary approach, which would direct the LGC to make the creation of three member wards (for annual elections by thirds) a specific objective in its normal programme of PERs.

26.2 In theory this should be achievable with no adverse impact on the cost or timetable of the PER programme. But it depends how much opposition there is to the proposal, and whether the LGC's task will be aggravated or facilitated by being given discretion. There may be lessons to be learnt from the structural reviews which would apply to the government's suggestion that:

“The end of the process need not be the perfect model, of elections by thirds in three member wards, for example, everywhere. Where multi-member electoral areas would clearly cease to reflect a natural community it would be possible to retain a single member wards or divisions; there could be a choice about how close to the perfect model the LGC recommendations should aim to go.”¹²

27 The overall impact of these constitutional changes

27.1 The likely impact and possible timescale of these various changes can be summarised as follows:

- PR for Europe has removed supplementary reviews from the PBCE (1997)
- PR for Westminster might still require a PBC, which might have to conduct a rapid boundary review to implement the change; thereafter its task would be less contentious (2000-01/2002-05?)
- PR for local government might still require wards to be defined, but this could be left to local authorities if warding no longer affected electoral outcomes (2005/10?)
- elected mayors will require the division of London (1998) and other cities (2000/05?) into new electoral districts
- Lord Hunt's Bill (1998) will not lead to significant changes in the number of councillors

¹² DETR: Modernising Local Government (February 1998) Annex 1 para 17.

- annual elections may require the LGC to create three-member wards as a regular feature of PERs.

28 Possible additional functions: local government electoral arrangements

- 28.1 The last question I have to address is, what additional functions might appropriately be given to the LGC? Apart from those who urged an Electoral Commission, the main set of additional functions revolved around improving local democracy. As one respondent put it, it seems perverse to devote such intense effort to ensuring fairness in local government elections if, come election time, so few people turn out to vote. Should not the Commission be responsible for local government electoral arrangements more generally; and devote some of its energy and expertise to advising on ways of improving local democracy and increasing electoral turnout?
- 28.2 I think that there is a role the Commission could play; but it may be premature to say so. The new government has a strong interest in initiatives to revive local democracy, and to improve electoral procedures; and we will have to wait for the outcome of those reviews before seeing what role other bodies might play. I am also aware that many initiatives to improve local democracy (DETR) will impact on national elections (Home Office); and that many of the proposals to improve electoral arrangements would have big resource implications for central and for local government.
- 28.3 It is an advisory and not an executive role in relation to local electoral arrangements which is proposed for the LGC. The argument is that such a role would complement its main function of maintaining the electoral fabric of local government. One interviewee described this wider function as modernising and maintaining a local government electoral system which is fit for the purpose; and which adapts not merely to population movements, but to technical, social and other changes. As it was put by

the Association of Electoral Administrators, there is a need for “a clearing house or review body for dealing with all matters relating to local government electoral arrangements and advising the Government accordingly. This should include the question of election rules. We would venture to suggest that this would be a more efficient arrangement than that which currently exists where at least two government departments (DETR and Home Office) have an interest in these matters”.¹³

28.4 Currently both departments have a keen interest in these matters. Hilary Armstrong MP (Minister for Local Government, DETR) has published a consultation paper on Modernising Local Government - Local Democracy and Community Leadership (February 1998); and George Howarth MP (Parliamentary Under-Secretary, Home Office) is chairing a Working Party on Electoral Procedures. On the agenda of both reviews is a range of measures to

- improve the electoral register (the canvass; rolling register; electronic register)
 - make voting easier (postal votes; extended hours; Sunday voting)
 - improve access to polling stations (voting at any polling station; mobile polling stations; voting in supermarkets)
 - increase voter awareness and involvement (annual elections, direct democracy etc.)
- in order to increase turnout in local elections. Ministers are keen to identify improvements which can be achieved quickly by administrative means; and then to pursue those which require legislation or more resources.

28.5 The crux will lie in follow through. As the AEA and LGA have pointed out, this is not a new agenda: the same set of issues and ideas were discussed by the Home Office working party after the 1992 election, but nothing happened. Much depends on continuing Ministerial interest and support, which cannot be guaranteed when ministers move on average once every two years. This is where the LGC could potentially play a role. Giving these functions to the LGC would ensure a continuing interest, by a body which could bring a single focus to the task, which enjoys the confidence of local government, and which would not be suspected of pursuing these matters for political ends. It could bring a more sustained interest to the task than a

¹³ Letter from Chairman, John Turner, 19 December 1997.

government department can, and could act as an adviser to both central and local government: for example, it could provide local authority Electoral Registration Officers with professional encouragement and support which they currently lack.

- 28.6 I recognise that Ministers will not wish to transfer these local democracy issues to a Commission at this stage. They will want to complete their reviews, and announce their conclusions and a plan of action. But as part of that plan of action I hope they will consider a wider role for the LGC. In other countries this role is often given to an independent Commission, because of the greater focus, expertise and energy it can provide, and because it is seen as a set of tasks more appropriately performed outside government by an independent body.

29 Additional functions: campaign expenditure

- 29.1 The other additional functions which have been proposed can be dealt with more briefly. Related to local authority electoral arrangements is controls on campaign expenditure. This is not currently a problem: as one of the political parties put it, “in local government elections campaigning is more a question of shoe leather than telephone banks”. But it may become a problem with elected mayors. In London and other cities they will run high profile campaigns with big budgets, and are quite likely to challenge rival candidates’ expenditure. The government’s consultation paper on proposals for a Greater London Authority asked “What controls should we put on campaign funding by candidates for mayor and assembly?”: but it did not ask who should hear complaints and enforce the controls.

29.2 Here too it may be premature to raise this as an issue. The Neill Committee is conducting a review of the funding of political parties, and is exploring limits on campaign expenditure, but mainly in the context of national elections. Lord Neill has suggested an Electoral Commissioner might be required as part of the machinery to enforce any controls on party funding or expenditure. Any role for the LGC is highly speculative and would have to fit alongside whatever wider machinery is brought in to play. Suffice it to say that Returning Officers and the political parties say they need

guidance during the election campaign not afterwards, but this the Home Office has always been reluctant to provide. Here too an independent commission could be more accessible to the parties and the media, and less inhibited in offering advice. If the LGC is given wider responsibility for advising on local government electoral arrangements, I recommend that these should include responsibility for advising the government on controls on local campaign expenditure; and for issuing guidance to Returning Officers and to the parties on how to administer the controls.

TERMS OF REFERENCE FOR THE FINANCIAL AND MANAGEMENT REVIEW OF THE LOCAL GOVERNMENT COMMISSION OF ENGLAND (THE LGC)

1. To undertake a comprehensive review of the LGC consisting of first a prior options assessment of the LGC and its functions and second, having regard to that assessment, a review of all aspects of the Commissions organisation, operations and procedures.

First stage

2. For the purposes of the prior options assessment to consider and by the end of December 1997 to report to the Deputy Prime Minister on the following questions:
 - a. Are the functions presently undertaken by the LGC necessary, namely is it necessary that there should be in England -
 - i. At the direction of the Secretary of State an ongoing and independent system for the review of and change to the structure of local government
 - ii. At the direction of the Secretary of State an ongoing and independent system for the review of and change to the boundaries between local authorities
 - iii. At the direction of the Secretary of State an ongoing and independent system for the review of and change to Parish boundaries and electoral arrangements.
 - iv. An ongoing and independent system for rectifying electoral imbalance so as to provide, as far as possible, equality of representation by the review of, and recommending change to, electoral arrangements within local authorities at parish, district and county level including: the number of councillors to represent an area, the size of electoral areas, the names of those areas and the years in which elections are to be held.
 - b. To the extent that the functions referred to above are judged necessary, is the LGC the most appropriate and cost-effective body for carrying out all these functions having regard to, inter alia, other bodies or agencies active in similar fields, in particular the Parliamentary Boundary Commission for England, or could all or any of these functions be better undertaken by some other existing or new body either within the private or public sector?
 - c. To the extent that the LGC is judged to be an appropriate and cost-effective body for carrying out all or any of the functions mentioned above, are there additional functions which it might be equally appropriate and cost effective for the LGC to undertake?
 - d. To the extent that the LGC is judged to be an appropriate and cost-effective body for carrying out all or any of the functions mentioned above, are there additional functions which could be contracted out or subjected to market testing?

Individuals and Organisations who Submitted Written Evidence

1. Professor David Butler, Nuffield College, Oxford
2. Sir John Banham, Former Chairman, Local Government Commission (confidential)
3. Mr Martin Easteal, Former Chief Executive, Local Government Commission
4. Mr George Boyne, Cardiff Business School
5. Professor G W Jones, LSE
6. Adrian Stungo, Chief Executive, LGC
7. Sir Michael Harrison, Deputy Chairman, Parliamentary Boundary Commission (England)
8. Professor Ron Johnston, University of Bristol
9. Councillor Alan Waters, Leader Norwich
10. Mr Paul Durham, Chief Executive, Chester
11. Professor Colin Rallings & Professor Michael Thrasher, Local Government Elections Centre, Plymouth
12. Professor Iain McLean, Nuffield College, Oxford
13. Mr Ian Keating, Association of London Government
14. Grant Jordan, Aberdeen University
15. Mr John Simmott, Chief Executive, Leicester
16. Mr Nick Hildick-Smith, Ordnance Survey
17. Mr Michael Chisholm, Former Member, LGC
18. Mr David Henshaw, SOLACE
19. Mr John Turner, Chairman, Associated Electoral Administrators
20. Professor John Stewart, Inlogov, Birmingham
21. Graham White, Hon. Secretary Association of Council Secretaries and Solicitors
22. David Monks, Chair of Electoral Matters Panel, SOLACE
23. David Gardner, Assistant General Secretary, Labour Party (confidential)
24. Peter Lacey , County Secretary, Somerset Association of Local Councils
25. Peter Keith-Lucas, Local Government Partner, Wragge & Co.
26. Sir Maurice Kay, Deputy Chairman, Parliamentary Boundary Commission (Wales)
27. David Rose, Director Public Affairs, Royal Town Planning Institute

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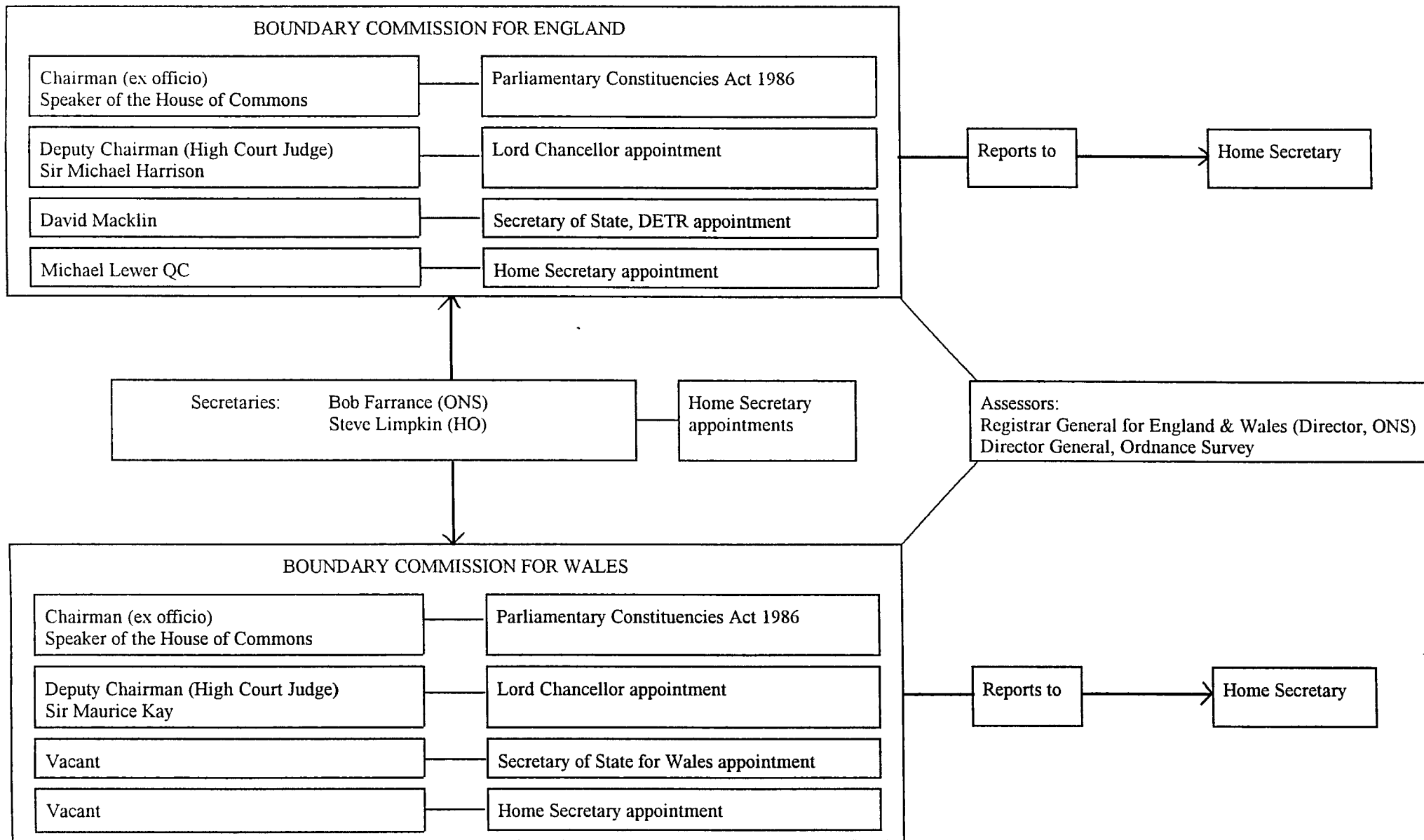
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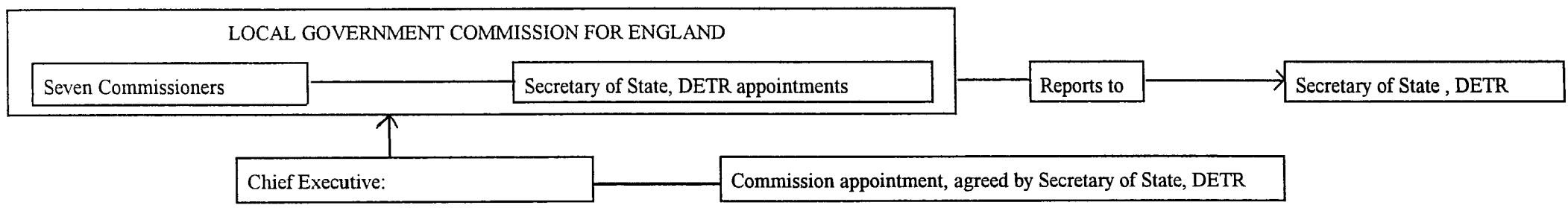
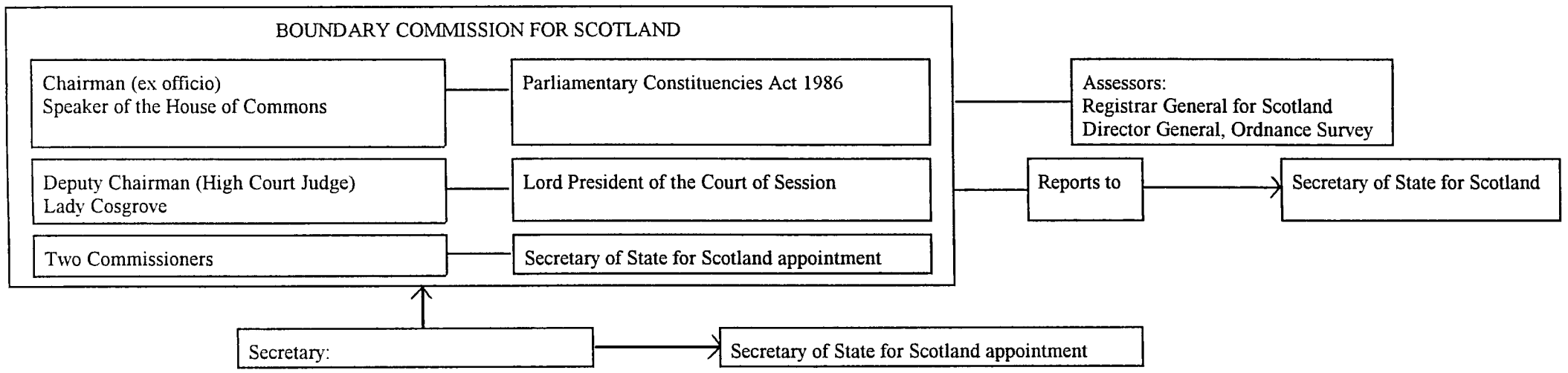
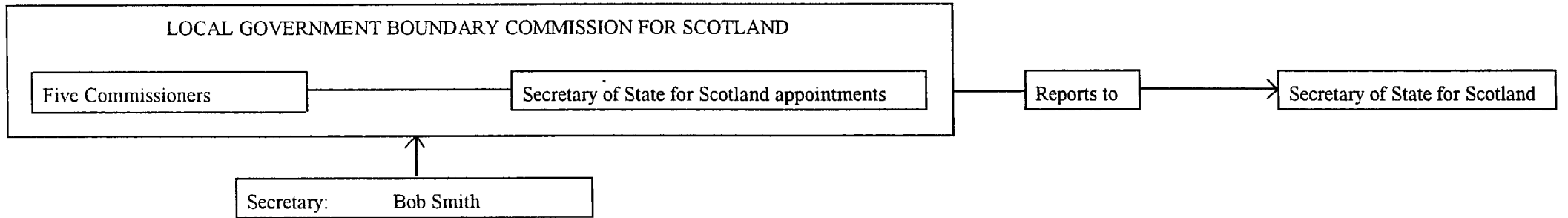
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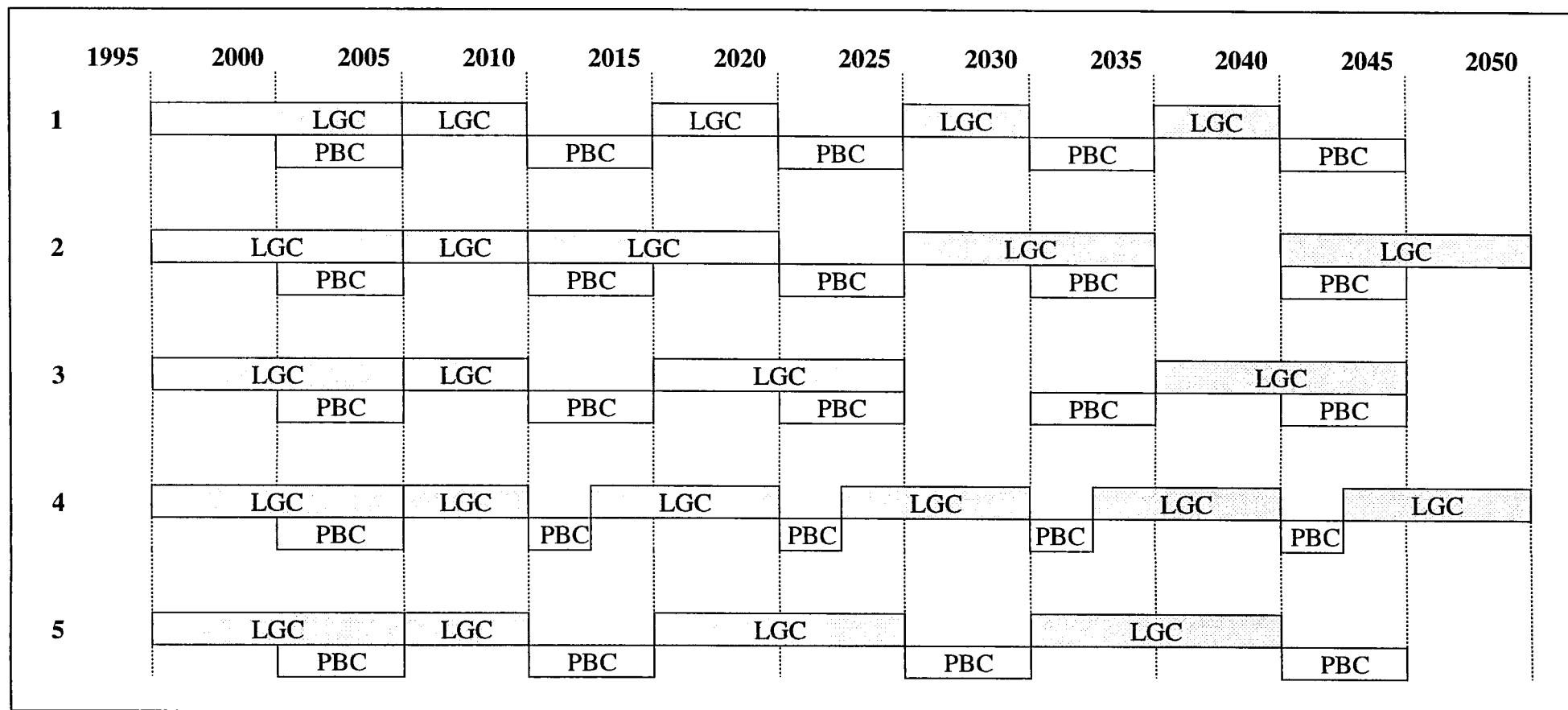
CYCLE OF PBC AND LGBC/LGC WORK

1974	Local Government Reorganisation	1981	1987	1992	March 1996	2005	
	LGBC Initial Electoral Reviews of new authorities and London boroughs	LGBC ad hoc parish, boundary and electoral reviews	LGBC mandatory review of London and Metropolitan District boundaries	LGC structural reviews	LGC PER Programme		
1976	PBC General Review of parliamentary constituencies	1983	1991	1992 ¹	1995 ²	1999	
							PBC General Review of parliamentary constituencies
						April 2004 ³	
						2005	

NOTES:

1. Frequency of PBC parliamentary reviews changed from 10-15 years to 8-12 years.
2. PBC highlights difficulties in work as a consequence of non-completion of LGBC reviews of London and Metropolitan areas (see attached).
3. Last date for PBC to take account of ward changes as a consequence of LGC PER work.

The leapfrogging cycle of LGC and PBC reviews: 5 possible models



Notes:

- All 5 models start with the LGC's current programme of PERs running from 1996 to 2005-06, and the PBC's Fifth Periodical Review running from 1999 to 2005 (this includes the Welsh PBC reviews)
- In the first 4 models the PBC conducts a review every 10 years, and in the first 3 the PBC review takes 5 years
- Models 4 and 5 maintain an alternating cycle: 3 and 7 years (model 4), 5 and 10 years (model 5)
- Models 2 and 3 have a leapfrogging cycle, in which peak periods coincide every 20 years or so.