

REQUEST TO THE BOUNDARY COMMITTEE TO ADVISE

6 February 2008

Proposals for unitary structures

1. Following our announcement of 5 December on decisions on unitary structures, I am now writing with requests to the Boundary Committee under section 4 of the Local Government and Public Involvement in Health Act 2007 to advise on certain matters respectively relating to the unitary proposals made by Exeter City Council, Ipswich Borough Council, and Norwich City Council.
2. These proposals are three of the 26 proposals, submitted by councils in response to the Secretary of State's *Invitation to Councils* issued on 26 October 2006. The judgements that the Secretary of State reached on 5 December 2007 on these three proposals are set out in paragraphs 4 to 6 below.
3. On the basis of these judgements the Secretary of State is at present not minded to implement the proposals. However, she believes, having regard to the circumstances of each area and to certain strengths that the proposals possess, notwithstanding her assessment of them against the criteria in the original Invitation, that there could be alternative proposals covering the whole or part of the wider county area which would achieve the outcomes specified by those criteria. Accordingly, the Secretary of State is making the request to the Boundary Committee set out in paragraphs 7 to 10 below.

The Secretary of State's judgements

Exeter City Council

4. In relation to the unitary proposal from Exeter City Council, the Secretary of State has now judged that there is not a reasonable likelihood of it, if implemented, achieving the outcomes specified by all the five criteria. In particular, the Secretary of State considers that there are still a number of risks to the financial case set out in the proposal. She believes that, allowing for a reasonable estimate for costs, the pay back period for the proposal may be over the 5 years specified by the affordability criterion.

Ipswich Borough Council

5. In relation to the unitary proposal from Ipswich Borough Council, the Secretary of State has now judged that there is not a reasonable likelihood of it, if implemented, achieving the outcomes specified by all the five criteria. In particular, the Secretary of State considers that there are still a number of risks to the financial case set out in the proposal. She believes that, allowing for a reasonable estimate for costs, the pay back period for the proposal may be over the 5 years specified by the affordability criterion.

Norwich City Council

6. The Secretary of State has confirmed that in her judgement there is not a reasonable likelihood that, if implemented, the proposal as submitted by Norwich City would meet the criteria set out in the Invitation. In particular, the Secretary of State takes the view that value for money service delivery may potentially be compromised by the city's small population and the difficulty of managing cross-border issues. She also considers there are a number of risks to the financial case set out in the proposal relating to the feasibility of achieving the potential costs and savings projections in the circumstances of the Norwich proposal and also has concerns about the reliability of the financial data submitted in the proposal.

The Secretary of State's requests for advice

7. The Secretary of State requests the Boundary Committee under section 4 of 2007 Act to advise by no later than 31 December 2008 on the matters set out in paragraphs 8 to 11 below.
8. The matters on which the Boundary Committee is requested to advise in relation to the unitary proposal from Exeter City Council are:
- a) whether there could be an alternative proposal for a single tier of local government, and if so on what basis, for Exeter and the whole or part of the surrounding Devon county area, (with existing, or if necessary changed, boundaries of Plymouth City or Torbay Borough) which would in aggregate (including any implications for Plymouth City Council and Torbay Borough Council) have the capacity, if it were to be implemented, to deliver the outcomes specified by the five criteria set out in Annex A to this request; and
 - b) if there could be such an alternative proposal for a single tier of local government as referred to in sub-paragraph a above, would the Boundary Committee make that alternative proposal to the Secretary of State; for the avoidance of doubt the reference to the making of any such proposal is a reference to the making of a proposal in accordance with the procedure set out in section 6(4) and (5) of the 2007 Act.

9. For the purposes of paragraph 8 above, boundary changes to Plymouth City or Torbay Borough are to be considered necessary only if, on the basis of any evidence received, the Committee considers that: they are essential if there is to be an alternative proposal for a single-tier of local government for Exeter and the whole or part of the surrounding Devon county area which would in aggregate (including any implications for Plymouth City Council and Torbay Borough Council) have the capacity, if it were to be implemented, to deliver the outcomes specified by the five criteria set out in the Annex A to this request. And in any event such boundary changes should be considered only to the extent that they maintain the concept of the City and Borough.
10. The matters on which the Boundary Committee is requested to advise in relation to the unitary proposal from Ipswich Borough Council are:
 - a) whether there could be an alternative proposal for a single tier of local government, and if so on what basis, for Ipswich and the whole or part of the surrounding Suffolk county area, which in aggregate would have the capacity, if it were to be implemented, to deliver the outcomes specified by the five criteria set out in Annex A to this request; and
 - b) whether there could be an alternative proposal for a single tier of local government, and if so on what basis, for Ipswich and the whole or part of the surrounding Suffolk county area, together with the whole or part of the district of Great Yarmouth, which would in aggregate have the capacity, if it were to be implemented, to deliver the outcomes specified by the five criteria set out in Annex A to this request; and
 - c) if there could be alternative proposals for a single tier of local government referred to in sub-paragraphs a and b above, which of them would better deliver the outcomes specified by those criteria; and
 - d) if there could be an alternative proposal for a single tier of local government identified under sub-paragraph c above, or if not if there could be an alternative proposal for a single tier of local government referred to under either sub-paragraph a or b above, would the Boundary Committee make that alternative proposal to the Secretary of State; for the avoidance of doubt the reference to the making of any such alternative proposal is a reference to the making of a proposal in accordance with the procedure set out in section 6(4) and (5) of the 2007 Act.

11. The matters on which the Boundary Committee is requested to advise in relation to the unitary proposal from Norwich City Council are:
- a. whether there could be an alternative proposal for a single tier of local government, and if so on what basis, for Norwich and the whole or part of the surrounding Norfolk county area, which would in aggregate have the capacity, if it were to be implemented, to deliver the outcomes specified by the five criteria set out in Annex A to this request; and
 - b. whether there could be an alternative proposal for a single tier of local government, and if so on what basis, for Norwich and the whole or part of the surrounding Norfolk county area, together with the whole or part of the district of Waveney, which would in aggregate have the capacity, if it were to be implemented, to deliver the outcomes specified by the five criteria set out in Annex A to this request; and
 - c. if there could be alternative proposals for a single tier of local government referred to in sub-paragraphs a and b above, which of them would better deliver the outcomes specified by those criteria; and
 - d. if there could be an alternative proposal for a single tier of local government identified under sub-paragraph c above, or if not, if there could be an alternative proposal for a single tier of local government referred to under either sub-paragraph a or b above, would the Boundary Committee make that alternative proposal to the Secretary of State; for the avoidance of doubt the reference to the making of any such alternative proposal is a reference to the making of a proposal in accordance with the procedure set out in section 6(4) and (5) of the 2007 Act.

Other matters

12. Attached (Annex B) is guidance from the Secretary of State to which the Boundary Committee must have regard in making any recommendation or alternative proposal to the Secretary of State.

Secretary of State for Communities and Local Government

6 February 2008

Annex A

Outcomes to be achieved by unitary arrangements

1. Any unitary arrangements, if these were to be implemented, should be reasonably likely to deliver the following outcomes:
 - I. the change to the future local government structures is to be:
 - affordable, ie that the change itself both represents value for money and can be met from councils' existing resource envelope;
 - supported by a broad cross section of partners and stakeholders; and
 - II. those future unitary local government structures are to:
 - provide strong, effective and accountable strategic leadership, including that strong economic leadership recognised in the Government's Review of sub-national economic development and regeneration¹;
 - deliver genuine opportunities for neighbourhood flexibility and empowerment, in particular for empowering citizens and communities as envisaged in the Government's Green Paper Governance of Britain² and in the Government's and the LGA's An Action Plan for Community Empowerment: building on success³;
 - deliver value for money and equity on public services.
2. These outcomes are described in more detail below.

Affordability

3. The change to a unitary structure should deliver value for money and be self-financing so that:
 - a) transitional costs overall must be more than offset over a period ("the payback period") by savings;

¹ Review of sub-national economic development and regeneration, HMT, DBERR, & CLG, 2007

² The Governance of Britain, CM 7170, 2007

³ An Action Plan for Community Empowerment: Building on success, CLG, 2007

- b) the “payback period” must be no more than 5 years;
 - c) in each year, capital transitional costs incurred are to be financed through revenue resources, or the normal process of prudential borrowing or the use of capital receipts;
 - d) in each year, other (ie revenue) transitional costs incurred are to be financed through a combination of the following:
 - in year revenue savings arising as a result of restructuring;
 - other in year specified revenue savings that are additional to annual efficiencies (eg Gershon savings) which local authorities are expected to make;
 - drawing on available revenue reserves, subject to ensuring that satisfactory amounts remain to meet unforeseen pressures or other potential calls on reserves. Use of revenue reserves should be the final option considered, both because of the need to preserve a contingency to meet future pressures and because use of reserves adversely affects the fiscal aggregates in a given year, increasing spending but not receipts and so placing further pressure on the Government’s fiscal rules;
 - e) the use of capital resources to meet revenue costs will not be permitted.
4. All costs incurred as a result of reorganisation must be met locally without increasing council tax.
 5. Central Government will accept no liability for any miscalculation or cost overrun in the final outturn. The Government will not accept that any additional, unforeseen costs of restructuring should be recovered from council tax payers and that, therefore, any unforeseen costs will need to be financed from other sources.

A broad cross section of support

6. It is recognised that a change to a unitary structure may not carry consensus from or within all sectors. While no single council or body, or group of councils or bodies, should have a veto; the change to a unitary structure, if it were to be made, should at least have a measure of support from a range of key partners, stakeholders and service users/citizens.

Strategic leadership

7. A new unitary structure should provide strong, effective and accountable strategic leadership. This leadership should work with their local community, business community, voluntary sector and other stakeholders to create a vision for the future of the place (in particular for the place's success, economically, socially, and environmentally) and go on to deliver it. Community leadership is one of the most important features of future local governance.⁴ A central role for the local authority is promoting the prosperity of its area and it should provide the strategic leadership necessary for this in the context of this developing agenda as envisaged in the Government's Review of sub-national economic development and regeneration published on 17 July 2007.
8. Accordingly, a new unitary structure should provide strategic leadership that is characterised by:
 - i) strong, stable mandates, consistent with enabling local authorities to take a long-term, strategic view of the needs of their area, and how best to promote that area's prosperity, achieve economic development, and allow the taking of tough decisions where necessary;
 - ii) an outward-orientation, consistent with a growing need to represent the community in discussions and debates with organisations and parts of government at local, regional and national level eg through LAAs;
 - iii) clear and direct accountability, consistent with making powerful local leaders more responsive and responsible, and tackling disengagement and powerlessness by shortening the distance between governors and governed; and
 - iv) leaders with personal visibility, consistent with the need to bring coherence to an increasingly complex landscape of local actors and partnerships.

⁴ *All Our Futures: The challenges for local governance in 2015*, ODPM, 2005

Neighbourhood empowerment

9. A new unitary structure should deliver empowerment of citizens and communities as envisaged in the Government's Green Paper on the Governance of Britain published on 3 July 2007 and in the Government's and LGA's Action Plan for Community Empowerment published in November 2007. There should be a devolution of power down to local communities so that all communities have the power and resources to influence the decisions that affect them in their localities, and hence improve their quality of life.
10. Accordingly, a new unitary structure should deliver neighbourhood and community empowerment characterised by:
 - v) a strong citizen focus, including how the authority will discharge the duty in section 138 of the Local Government and Public Involvement in Health Act 2007 to inform, consult, and where it considers it appropriate for representatives of local persons to be involved in the exercise of its functions;
 - vi) local people having the power to influence the decisions that affect their lives including the ability to shape service provision;
 - vii) engaging all sections of the community and increasing the attractiveness of engagement to widen participation to all.⁵ For example, Local Charters allow for greater transparency in service provision, enabling service providers and communities to reach a shared understanding about their respective roles, responsibilities and expectations; and
 - viii) clear and accountable community (ie neighbourhood/parish) governance arrangements which empower the frontline councillor to champion their community.

⁵ 'We need to transform the opportunities available for all people and communities to shape neighbourhoods...' Sustainable Communities: People, Places and Prosperity ODPM 2005 '...there is much more than can be done to draft marginalised and vulnerable people into local decision making... important to find new ways of increasing people's capacity or desire to become more involved' *Promoting Effective Citizenship and Community Empowerment: A guide for local authorities on enhancing capacity for public participation*, ODPM 2006

Value for money services

11. A new unitary structure should deliver services effectively, efficiently and in an integrated and coherent way, ultimately driving up 'customer satisfaction'.⁶ It should allow working with local partners to utilise the capacities and skills of the best service providers in the public, private and third sectors. It should also allow current procedures and approaches to service provision to be challenged and reviewed across the board through such processes as 'business process improvement'.
12. Accordingly, a new structure should deliver services characterised by:
 - ix) value for money, offering public services that are efficient, effective and joined up, being delivered through, maximising collaboration and technology;
 - x) being effective and responsive, best suited to meet the needs and preferences of local and business communities; ultimately '...services which people use because they value them, not because they have no alternative'⁷; these services should reflect consideration having been given to demand and other factors in the area including, for example, areas of deprivation, transport links and travel-to-work, shopping/leisure patterns; and
 - xi) communities playing an active role in influencing and shaping both their planning and delivery.

⁶ *Population Size and Local Authority Performance*, Communities and Local Government, 2006

⁷ *Sustainable Communities: People, Places and Prosperity*, ODPM 2005

Annex B

Guidance from the Secretary of State

Introduction

1. Section 2 of the Local Government and Public Involvement in Health Act 2007 provides that the Secretary of State may invite a county or district council in England to make a proposal for a single tier of local government (a proposal for unitary local government). Section 4 provides that where the Secretary of State receives a proposal in response to such an invitation, she may request the Boundary Committee for England to advise, no later than a date specified in the request, on any matter relating to that proposal which is specified in the request.
2. Section 5 of the 2007 Act provides that the Boundary Committee may provide the advice requested. Where it provides that advice, the Committee may also recommend whether or not the Secretary of State should implement the original proposal, and may make to her an alternative proposal for a single tier of local government for an area that includes the whole or part of the county for which the authority making the original proposal is either the council or the council of a district in that county.
3. Section 6 sets out the procedure the Committee must follow when making a recommendation or alternative proposal to the Secretary of State in response to her request for advice. Section 6(1) requires a local authority to provide such information to the Committee as it may reasonably require in connection with its functions under section 5, if it so requests, by such a date as the Committee may specify. Section 6(2) requires the Committee in making a recommendation or alternative proposal to have regard to any guidance from the Secretary of State about the exercise of its functions under section 5. Section 6(4) and (5) requires the Committee before making an alternative proposal to publish a draft of the proposal; to take such steps as it considers sufficient to secure that persons who may be interested are informed of the proposal and the period within which representations about it may be made to the Committee; and to take into account any representations made to it within that period. If the Committee makes any alternative proposal to the Secretary of State it must inform any person who made representations of the proposal made, and that they may make representations directly to the Secretary of State, and the period within which those representations may be made.

4. Paragraphs 5 to 12 below set out Guidance from the Secretary of State under section 6 about the exercise of the Boundary Committee's functions to provide advice, to make a recommendation to the Secretary of State, and to make an alternative proposal to the Secretary of State. Section 6(2) of the 2007 Act requires the Boundary Committee to have regard to this Guidance in making a recommendation or alternative proposal.

Guidance from the Secretary of State

5. Whether to provide advice or make an alternative proposal to the Secretary of State, and if so what it should be, is a matter for the Boundary Committee. It is open to the Committee when providing the advice requested, if sees fit, to make under section 5(3)(c) an alternative proposal which has not been sought or referred to in the Secretary of State's request for advice.
6. The first stage in the procedures for making an alternative proposal set out in section 6(4) and (5) of the 2007 Act is for the Boundary Committee to formulate a draft alternative proposal. In deciding what steps it needs to take to do this, the Committee should have regard to, among other issues, the matters on which the Secretary of State has requested it to advise, and the dates she has specified by which the advice is to be received. In any event those steps should include the Committee having a dialogue with potentially affected local authorities about possible unitary solutions for the area concerned, and requesting local authorities as necessary to provide it, by such date as it may specify, with such information as it may reasonably require in order to formulate the alternative proposal.
7. Any dialogue with, or request for information from, a local authority should not involve the authority having to incur significant expenditure. The process of dialogue and information seeking should be proportionate to the Committee's needs for formulating such alternative proposal as it considers appropriate, having regard to the Secretary of State's request for advice. Accordingly, this process should not involve some general invitation to all potentially affected local authorities to provide their own worked up proposals with full business cases containing detailed evidence against the 5 criteria. It will be for the Committee to obtain such information as it may reasonably require to compile the necessary rationale for any draft alternative proposal that it formulates.

8. The Committee's formulation of any draft alternative proposal should not be a process limited to assessing and choosing proposals, or ideas, put forward by local authorities or other interested parties. Accordingly, whilst it is recognised that the local authorities concerned and others may have views on, ideas about, and seek to promote, particular unitary solutions, a draft alternative proposal made by the Committee may be, if the Committee believes this to be right, entirely different from anything that local authorities or other stakeholders have suggested or sought to promote.
9. The procedure that the Committee is required to follow by section 6(4) and (5) of the 2007 Act provides the opportunity for persons who may be interested in a draft alternative proposal to make representations to the Committee which it must take into account. This should ensure that all interested parties will have the opportunity to contribute to the Committee's formulation of any alternative proposal made by it to the Secretary of State. Such representations may assist the Committee to make judgements about and fully assess the merits of an alternative proposal, and hence to decide whether to make it to the Secretary of State. The volume of representations for or against a proposal should not of itself be considered to provide a definitive view of that proposal's merits.
10. To provide the advice requested, and assess and make an alternative proposal sought by the Secretary of State, will involve the Committee having to reach a judgement about the capacity of particular unitary arrangements, if they were to be implemented, to deliver specific outcomes on the five criteria. It is recognised that in practice the likelihood of such outcomes being delivered, if particular unitary arrangements were to be implemented, will in part depend not only on the unitary structures themselves, but also what associated arrangements on, for example, council executives, neighbourhood and community governance, or partnerships, are adopted within those structures. Accordingly, when making judgements about a possible alternative proposal, the Committee may consider what such associated arrangements might be possible with, or facilitated by, that alternative proposal, and in the event of the proposal's implementation, what such arrangements are likely to be adopted.
11. In considering such associated arrangements the Committee should have regard to associated arrangements which have been, or are proposed to be, adopted in the case of other unitary structures which have, or are being implemented, as evidence about what associated arrangements might be possible. The Committee should also have regard to the circumstances of the area concerned which may provide further evidence about what associated arrangements would be likely to be adopted if the alternative unitary proposal were to be implemented.

12. When responding to a request from the Secretary of State for advice and making an alternative proposal to her, the Committee may wish to provide details of its judgements and assessments of that alternative proposal and its reasoning for making it. Any such details and reasoning should provide information about any assumptions that the Committee has made about the associated arrangements referred to above.