



14 MAR 2005

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Our Ref: BCE/RWF/06/CSPL/1
Your Ref:
Date: 13 March 2006

The Committee on Standards in Public Life
35 Great Smith Street
London
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Dear Sir

REVIEW OF THE ELECTORAL COMMISSION

Thank you for giving the Boundary Commission for England (the Commission) an opportunity to comment on the Issues and Questions Paper relating to the review of the Electoral Commission. The Commission have carefully considered the issues set out in the Paper and have asked me to respond in respect of just one of the questions, Question 8, which concerns the appropriateness of the restrictions placed on those who may be appointed as an Electoral Commissioner.

The Commission note that Section 3(4) of the Political Parties, Elections and Referendums Act 2000 (PPER Act) prohibits the appointment of persons who have, or who have in the past ten years had, affiliations to political parties and that Section 15(3) also places the same restrictions on the appointment of Deputy Electoral Commissioners. The Commission consider that not only are such restrictions entirely appropriate but that they are essential in preserving the independence and impartiality of the Electoral Commission in the eyes of the public at large, certainly as far as its role in reviewing boundaries is concerned.

In the Commission's view, major credibility issues are at stake here because currently, inter alia, the individuals concerned between them not only review but take the final decisions on the warding structures of local authorities. Deputy Electoral Commissioners make recommendations on local government electoral boundaries in England and Electoral Commissioners make the final decisions in respect of those boundaries and make the Orders that give effect to them.

Moreover, at a future date, the role of Electoral and Deputy Electoral Commissioners in reviewing electoral boundaries is due to be enlarged to include Parliamentary constituency boundaries for the whole of the UK. In England, when that happens, these same individuals will also then be reviewing and making recommendations in respect of the redistribution of Parliamentary constituencies based on the local authority wards that they have already created: wards are the building blocks for parliamentary constituencies.

The Commission are disappointed that you have reinforced the impression (paragraph 2.29 of your paper) which many people have, and which causes frequent misunderstanding as it is, that the Electoral Commission already has this latter responsibility. Although Section 16 of the PPER Act provides for the reviews conducted by the Commission to be transferred to the Electoral Commission, at a date to be decided by Order of the Secretary of State, that transfer has yet to take place, contrary to the impression given in your Paper.

At this time, some informal discussions have taken place but no decision has yet been taken about the most effective date for that transfer. Once the transfer has been effected, reviews of Parliamentary constituencies will be conducted by the Electoral Commission's Boundary Committee for England (the Committee). You will be aware that the Committee consists of an Electoral Commissioner as Chairman and a number of Members who are designated as Deputy Electoral Commissioners and, inter alia, it undertakes Periodic Electoral Reviews (PERs) and Further Electoral Reviews (FERs) of local government wards, as detailed in paragraphs 2.29 – 2.34 of the Paper.

Since its establishment in 1944, this Commission has built up and maintained a very strong reputation for independence and political impartiality which it considers to be vital for the successful conduct of reviews and the acceptance of its recommendations by Parliament. It is known that those who are actively involved with the reviews, which includes the Parliamentary political parties, greatly value this independence and impartiality.

The Commission are of the opinion that if the restrictions set out in the PPER Act, in respect of the appointment of Electoral Commissioners and Deputy Electoral Commissioners, were to be removed and persons with party affiliations appointed, it is bound to raise considerable concerns about the independence and impartiality of the review process. The Commission also consider that the same concerns would apply to the PERs and FERs conducted by the Committee. The Commission believe that the current restrictions contained in the PPER Act relating to the appointment of Electoral Commissioners and Deputy Electoral Commissioners should be retained. In their view it is vital to ensure that all involved in the process are reassured of its impartiality and that the Committee is protected, as far as possible, from allegations of gerrymandering.

Prior to the introduction of the PPER Act, the Commission were consulted by the Home Office about the proposal to transfer responsibility for the reviews of local government wards and Parliamentary constituencies to the Committee. Whilst Commissioners had some concerns about the relationship between the Electoral Commission and the Committee, they gave their support to the proposal. However, they did so in the knowledge that it was the intention to include restrictions of the kind now enshrined in the legislation on whom could be appointed as an Electoral Commissioner or Deputy Electoral Commissioner. It is doubtful that such agreement would have been forthcoming had such restrictions not been included.

The Commission feel sufficiently strongly about this to say that in their view should it be decided, for reasons wholly unconnected with the setting of boundaries, to remove restrictions on the appointment of individuals as Electoral Commissioners or Deputy Electoral Commissioners with current or previous affiliations to political parties, then consideration should be given to legislating to remove all boundary setting functions from within the Electoral Commission.

I have copied this letter to the Chairman of the Commission (the Speaker of the House of Commons) and to the Boundary Commissions for Northern Ireland, Scotland, and Wales.

Yours faithfully

A handwritten signature in cursive script, appearing to read 'R W Farrance', written in dark ink.

R W Farrance
Secretary to the Commission