



Borough Council of
King's Lynn &
West Norfolk



Breckland District Council

Broadland District Council

Great Yarmouth Borough Council

King's Lynn and West Norfolk Borough Council

North Norfolk District Council

South Norfolk District Council

19th January 2010

Dear Secretary of State

A JOINT RESPONSE ON THE LOCAL GOVERNMENT REVIEW OF NORFOLK

1. The review of the future arrangements for local government in Norfolk is a matter of substantial public importance, affecting nearly one million people and businesses.¹
2. This response is drafted on behalf of six² of the eight local authorities in Norfolk and relates to the Advice provided by the Boundary Committee³ for a single unitary council for the county of Norfolk. If this recommendation is accepted it will mean that the existing local authorities in Norfolk will be abolished and replaced with one council.
3. Norfolk is the fifth largest county in England. Of the non-metropolitan counties it is the seventh most populous. A third of its border is with the North Sea. Since the end of the nineteenth century local government in Norfolk has comprised a county council together with urban and rural district councils.⁴ We represent councils whose areas cover the majority of the county and represent the democratic will of 85% of the population.

¹ The considerable public importance of the Boundary Committee's process was recognised by the High Court, see *R (Breckland DC) v Boundary Committee* [2008] EWHC 2929 (Admin) at para 3 *per* Cranston J (Appendix 1)

² These being the six named authorities to this submission. It is worth noting that five of these districts, excluding Great Yarmouth, have colloquially been referred to under the banner 'Keep Norfolk Local'.

³ Boundary Committee for England (7th December 2009) 'Advice to the Secretary of State on unitary local government in Norfolk'

⁴ It will be remembered that after the passage of the London Government Act, 1899 a national system of local government remained in place until London government was changed in 1963. A county had a county council and county boroughs, urban and rural district councils. This pattern existed until 1974 when the pattern of a county council and seven district councils was introduced in Norfolk.

4. Norfolk's Councils⁵ were never dogmatically opposed to the concept of unitary local government *per se*, a fact supported by the extent of initial engagement with the Boundary Committee and the innovative thinking that characterised elements of the original concepts that were submitted to the Boundary Committee. One by one our councils have disengaged from the process as the extent to which it was fundamentally flawed came into focus and as more and more of our questions went ignored and unanswered by the Boundary Committee.
5. We have now reached the point where no council in Norfolk supports the Boundary Committee's alternative proposal, the single county unitary. Norfolk County Council withdrew their support through a Council Resolution on the 12th September 2009, noting that 'the process of Local Government Review (LGR) in Norfolk has been flawed and as a consequence should now be shelved' (Appendix 2). The only council in Norfolk still promoting a unitary solution is Norwich City Council, who remain committed to a unitary city council, and who have expressed considerable doubts about the merits of the single county unitary option.
6. We therefore believe that the inevitable, logical and popular conclusion is to retain the existing arrangements in Norfolk, which displays all the characteristics of size, sparsity and rurality that the two-tier system was designed for in the first place. We believe that our response supports this conclusion.
7. To understand why we have arrived at this conclusion it is important to understand the complexities of a process that is now into its fourth year and which has led the Boundary Committee to take four attempts to publish their Advice. We refer you first to our three-page summary of the key dates and events (Appendix 3). This provides some context for the significant amount of detail you will need to become familiar with in order to make a rational decision.
8. In this formal response we have summarised the overarching issues (paragraphs 9-28), reviewed the evidence underpinning the five criteria (paras 29-61), assisted you with comparisons with the 'status quo' (paras 62-75), provided evidence in respect of the decisions that are now available to you (paras 76-86), and presented you with our conclusions (paras 87-92).

Good Decision-making

9. Characteristics of a sound decision-making process could reasonably be expected to include defining the problem to be solved, gathering evidence and information, generating options, evaluating the evidence, determining a hypothesis and then testing and challenging it with an open mind, drawing conclusions, before taking action.

⁵ With the exception, that is, of Broadland District Council, who were opposed to the process from the start

10. It is clear on review of the summary of key dates and events that this process didn't start from the same place as most sensible decision-making processes and as time went on this divergence from a sensible reality grew. It is important to note that back in 2006 only Norwich City out of Norfolk's eight councils ever had any desire to move to a unitary council under the opportunity afforded by the legislation⁶. As the process laboured on our councils found themselves drawn into someone else's battle, a battle we did not want. The 85% of Norfolk's population we serve through our councils are happy with existing arrangements.
11. The problem this review was meant to fix, if there ever really was one, was never clearly defined or explained in plain language to those subsequently drawn into the process. This is an important point when later considering the Committee's conclusions on 'broad cross section of support' and why there is less support in Norfolk than in the other two county areas under review (see also paras 34 - 35).
12. It is also implicit that sound decisions support, and don't contradict, policy. It is clear that the Boundary Committee's Advice has been developed in isolation from a consideration of relevant Government policy streams including the importance of place-shaping, local civic engagement and public involvement, strengthening communities and devolving power. Labour's own Local Government white paper 'Communities In Control' includes a number of commitments contradicted by the Boundary Committee's Advice:
- "we want to shift power, influence and responsibility away from existing centres of power into the hands of communities and individual citizens"
 - "power still remains too centralised and too concentrated in government"
 - "this is what empowerment is all about – passing more and more political power to more and more people through every practical means" (see also para 45)
 - "Councils remain at the heart of local democracy".
13. There is no sign that the significant independent evidence presented by Norfolk's councils to the Boundary Committee was read or understood or indeed that it influenced their thinking in any way. This is despite the Boundary Committee's own rhetoric which constantly referred to the need for 'well-argued and well-evidenced' responses. It is of particular concern that throughout this process there has been a distinct lack of objectivity and no sign that the Boundary Committee was genuinely interested in a constructive, open-minded dialogue.
14. Whilst the options available to you as Secretary of State are prescribed in the Local Government and Public Involvement in Health Act 2007 (hereafter referred to as 'the Act'), it is clear that your decision is a step in a much longer process (ie several years) and as such can not be viewed in isolation from the previous steps in this process. It is for this reason that we recap for you our concerns with the process to date.

⁶ ie the Local Government and Public Involvement in Health Act (2007), then the 'Strong and Prosperous Communities' white paper, published 26th October 2006

Process

15. We believe that it is impossible to reach a rational decision by following a deeply flawed and irrational process. The evidence of those flaws is overwhelming. We have set out at Appendix 4 a list of some of those flaws.
16. Additional notes and guidance have been issued in an attempt, amongst other things, to correct failures in the process. From the Department of Communities and Local Government (DCLG) alone this starts with the original written invitation of the Secretary of State (October 2006), the initial guidance to the Boundary Committee setting out the five criteria⁷ (February 2008, Appendix 5), through to the subsequent revision to introduce the 'in aggregate' concept (December 2008, Appendix 6), and then to distinguish between 'long-term' (priority) and 'short-term' outcomes (June 2009, Appendix 7). These appear to be an attempt to correct a process that was already fatally flawed but have only served to obfuscate.
17. We are left with the strong sense that there has been a pre-determined outcome from the start of the process and that the last three and a half years of engagement and activity on the part of Norfolk's councils and the Boundary Committee has therefore been futile – ie, nothing more than the cosmetics of democratic engagement. Every time it's been demonstrated that a single county or a Norwich unitary is not the right solution for Norfolk, that there may potentially be an alternative option⁸, or that there is no local support for change, the rules have apparently been changed.
18. The Boundary Committee demonstrate they are acutely aware of this problem themselves shortly after the clarification on the term 'in-aggregate' is published, where they acknowledge "there was a perception, certainly by some external commentators, that the new guidance could be regarded as political interference in the Committee's approach to the reviews and a desire to influence its conclusions".⁹ This is followed, in light of the judgement in the East Devon judicial review, by their "real concern that should the reviews continue, the Committee's independence from the Secretary of State should be seen to be maintained".¹⁰
19. A rigorously designed process would have followed the evidence to a conclusion for Norfolk that was based on a watertight, well-evidenced case for change. It would not have

⁷ ie effective strategic leadership, neighbourhood empowerment, value for money / equity (these three being the 'long-term' outcomes), affordability, broad cross-section of support (being the 'short-term' outcomes).

⁸ In the autumn of 2007 40 concepts were put to the Committee, as referenced in the 15th May 2008 Committee meeting. Indeed the Committee's own officers recommended a two unitary east/west model (Appendix 8). There has never been an explanation as to why another two-unitary model (the 'doughnut') is better, or why it received greater consideration by the Committee.

⁹ Minutes of BCFE(08) 17th Meeting on 18th December 2008 (Appendix 9)

¹⁰ Minutes of BCFE(09) 1st Meeting on 20th January 2009 (Appendix 10)

required the level of intervention, interference and confusion experienced by all parties (we refer you again to the summary of key dates and events). If the process had been sound:

- There wouldn't have been the need for further guidance and clarification
- Any obvious, workable unitary solution would have emerged as a consensus view in the three and a half years this process has been on-going; the fact none have done so is testimony to both the Committee's approach and their failure to understand the social and economic geography of Norfolk;
- It would not have taken the Boundary Committee four attempts to provide you with its advice;
- There would have been no need to challenge the process in the courts;
- There would be clear support from the majority of Norfolk's councils, whereas Norwich City Council are the only one continuing to support a unitary option (ie for a unitary Norwich);
- There would be clear public and stakeholder support (Appendix 11: YouGov Report; Appendix 12: Ipsos-MORI research).

20. In a situation which cried out for a measured, consensus-building approach allowing sufficient time to develop and refine concepts, we were faced with a secretive, stop-start process characterised by special consideration for certain pre-determined concepts and changing deadlines.

Business Case

21. Both the Secretary of State and the Boundary Committee¹¹ concede that any sensible assessment of an alternative proposal in terms of the Secretary of State's criteria requires sufficient information about the assumptions and arrangements that underlie a proposal, which is seen as a package comprising a "structure", "assumptions" and "arrangements". Norfolk authorities have never been provided with basic information about the single county unitary "package" (ie assumptions and arrangements affecting affordability and value for money) to enable them to give an informed and meaningful response to the Boundary Committee. It is for this reason, too, that our s151 (financial lead) officers were unable to sign off the base information used by the Committee's independent financial consultants.

22. There has therefore been no requirement to prepare a business case that links the outline plans for the single county unitary to its affordability. The costs and savings are "modelled" figures. They are not linked to a more detailed business case explaining the vision for the new council, how it will work, what the underlying structures will be and how transition to it will be handled. The workbooks are no more than a theoretical model. The

¹¹ Letter from Paul Rowsell, DCLG to Archie Gall, Boundary Committee, 13th August 2008, para 10 (Appendix 13)

2009 round of unitary councils was handled differently, and detailed business cases were submitted. Without these it is difficult to see how evidenced-based decisions can now be made. Put another way, how can you cost something when you do not know what its component parts are? Without this detail the decision-making process is simply a beauty contest. This may not at first appear to be a particularly significant point were it not for the following.

23. First, it is surely impossible to arrive at an accurate costing for an option for unitary local government without knowing what it is that is being costed. Therefore the affordability of an option cannot reasonably be known and the expectation of an option to achieve on-going financial savings cannot be predicted.
24. Secondly, our review of the previous tranche of new unitary councils suggests that the weaker and less detailed the original business case (for these proposals required them), the more problems that are now being seen in implementation¹². As the DCLG themselves note on their website¹³, “these proposals... were designed and put forward by the local councils themselves, and were approved because they offered the best way forward for their local area”. In Norfolk there are now no proposals supported by local councils (see also para 36) and therefore this cannot represent the best way forward for the local area.
25. For example, seven of the nine new unitaries appear to be struggling to deliver the promised financial savings and service improvements. In Cornwall a financial review¹⁴ states that “the business cases have been reviewed and basically some of the cases produced were done at a very high level with a combination of dubious and unconfirmed baselining work, use of statistics, high level broad brush comparisons and relying on their “experience” which generally leads to a picture where the cases are, to greater or lesser extents, not robust”. Imagine the resultant mess in Norfolk where there is no implementation plan or worked up business case for implementation as there has been in all other areas to date¹⁵.
26. Unfortunately the DCLG’s own review of ‘lessons learnt’¹⁶ from the previous phase of unitaries does not touch on this critical issue and remains light in detail. It certainly doesn’t consider the important topic of how implementation has progressed against the business plans. It is misleading to use the platitudes contained within it as justification for proceeding in the case of the remaining three areas, not least because the process is

¹² Chisolm, M & Leech, S (2008) “Botched Business” Douglas McLean illustrates in detail the flaws in the process even where a detailed business case was required.

¹³ www.communities.gov.uk/localgovernment/restructuring/newunitarycouncils/

¹⁴ Cornwall Council ‘Financial Health Check Report’ August 2009, prepared by the Head of Finance (Appendix 14)

¹⁵ with the possible exception of the original Norwich bid, which in any case is by now significantly out of date, and which has not resolved particular issues disputed with the County Council

¹⁶ DCLG (January 2010) “Establishing unitary councils in April 2010 – Lessons Learnt”

different. And the key areas of difference relate to the requirement for a business case in the previous round of unitary-authority implementation and the role of the Boundary Committee, and absence of a business case, in the current round¹⁷.

27. The Boundary Committee was clear in its requests for well-evidenced concepts from their proponents. Many councils developed concepts and submitted significant evidence to the Boundary Committee, yet the Committee has failed to take the same approach to its own work. We have not yet seen the evidence on which they have made their decisions, evidence which – if it exists – is surely the closest we will get to a business case in this instance.
28. If some of the new unitaries are struggling to find their feet when the twelve month transition was preceded by an extensive business-planning process, imagine the result in Norfolk, Suffolk and Devon where any decision to implement a concept remains just that: there is nothing else but a concept on which to base the implementation. High risk indeed, yet completely avoidable.

The Five Criteria

29. Your predecessor specified five criteria against which the Boundary Committee should measure any proposal for a new unitary council. We make a number of observations by reference to those five criteria.

Broad Cross-Section of Support

30. "...we could not recommend (to the Secretary of State) something that might be really good for one area, but not for the whole county. Any pattern that worked really well for 80% of the population but not for the other 20% would have been a failure"¹⁸. On this basis Max Caller, Chair of the Boundary Committee, has overseen the presentation to you of advice that fails even his own test of success; indeed, it is easy to imagine that the Committee would be ecstatic with anything approaching even half of his stated test of 80% support (see Appendix 15).
31. The Boundary Committee's Advice is, in this light, misleading in its assessment of 'support'. It states that the Committee 'have not simply weighed by numbers the views expressed in support of or opposition to a particular pattern' (para 2.13). Then at para 2.43 the Committee say 'we received over 3,000 representations during the course of the review. Appendix A of this report gives a statistical breakdown of the representations we received and the support for the different outcomes of the review'. So it is clear that the Committee have 'weighed by numbers' the views, shown in the graphs at appendix A of

¹⁷ It is also relevant to note that Norfolk's councils cover populations significantly larger than the small districts in counties such as Wiltshire and Durham.

¹⁸ Local Government Chronicle Interview with Max Caller, Chair, Boundary Committee, 24th July 2008, reproduced at Appendix 15

their report. There is also no evidence that this quantitative and qualitative information has been taken into account. Briefly:

- Appendix A shows that 3,096 responses were received; two thirds of these in the first consultation and one third in the second. There will be a large degree of double-counting as the consultation periods were at different times, consulting on different options and not directly comparable; many of the same organisations and people responded.
- Charts one and two show that as the Committee finalise their thinking, the effect on local opinion was to harden the local view that people wanted to retain the existing structure (from 63% to 73%).
- This renders charts 3-10 virtually meaningless as the numbers involved are so small; chart ten shows that a single county unitary is only supported by 3 local organisations in March 2009 even though the graph shows this as 75% support.
- Charts one and two also show 465 responses supporting the single county unitary. This is 20% more support than is shown in the officer's report to the 15th June 2009 meeting of the Committee (BCFE(09)35, Appendix 16). Where did this extra support come from?

32. The table below is our analysis of public opinion, which tells a consistent story:

Consultees:	Survey Source:	Date:	Percentage in favour of:	
			County Unitary	Status Quo
Public	You Gov poll	Winter 2008	not asked	84%
	Boundary Committee responses	Spring 2009	16%	72%
	Ipsos/Mori poll	Summer 2009	10%	65%
Parish & Town Councils	Boundary Committee responses	Spring 2009	14%	78%
Local Organisations & Stakeholders	Boundary Committee responses	Spring 2009	28%	46%

33. Put simply there is no significant public support, and this has consistently remained the case throughout the review¹⁹. Indeed, the Ipsos-MORI survey of 3,525 Norfolk residents revealed that around two thirds say they would like the county and district councils to remain as they are (65%) and this view strengthens the more information people have about the proposals. It's clear therefore that the neither the alternative proposal, nor the original bid, 'work really well for 80% of the population' – in Mr Caller's words.

¹⁹ YouGov research, Autumn 2008 (Appendix 11); Ipsos-MORI research, Summer 2009 (Appendix 12); Analysis of the responses to the Boundary Committee (Appendix 17).

34. At its meeting on the 15th June 2009 the Boundary Committee concluded "...that in making this alternative proposal [ie the single county unitary] it would seek to highlight that in Norfolk there was a lower level of support for a single county authority than in Devon and Suffolk, and a higher level of support for retaining the existing structure of local government. The Committee considered that while this pattern, in its judgement, met the tests of the five criteria, the Secretary of State should be made aware that, other than Norwich City Council,²⁰ there was a distinct lack of appetite for a move to unitary local government in Norfolk. This was in distinct contrast to the position in Devon and, in particular Suffolk."²¹ This reiterates the same conclusion reached in earlier meetings.²² Contrary to their own minutes, this is not stated in their advice provided on 7th December 2009.
35. Based on these factors we believe it is impossible to conclude that this criterion has been met. Indeed the Boundary Committee themselves acknowledge this in their meeting of the 15th June 2009 "of all the unitary county authorities being considered, Norfolk has the weakest level of support".

Strategic leadership

36. There is no sponsor for the single county unitary. Norfolk County Council withdrew its support in a council resolution on the 12th September 2009 at which it resolved to 'agree that the process of LGR in Norfolk has been flawed and as a consequence should now be shelved' (Appendix 2). It had previously been the champion of this option. However the Boundary Committee have not stated in their Advice to you that their alternative option has not sponsor despite having nearly three months to do so. Strangely, one of the Boundary Committee's earlier alternatives, the doughnut, proposed two new councils, only one of which had a sponsor. There is no support amongst councils, stakeholders, or the public. This surely renders strategic leadership unachievable.
37. The alternative option proposed by the Boundary Committee appears to be a view that it is too difficult to divide Norfolk into two or more viable unitaries. But this does not lead to a logical conclusion that a single county unitary is the answer by default. The Boundary Committee appear to have forgotten to first consider whether they want to provide Advice recommending an alternative unitary option (under section 5(1) of the act). In avoiding the controversy of drawing one or more dividing lines on a map, they have, ironically, created even more of a furore in Norfolk.
38. Is there any other explanation (ie, than avoiding division of the county) for ultimately recommending a single county unitary and not adhering to either their own officer's

²⁰ Whilst Norwich City Council strongly supported a two unitary option they expressed very considerable concerns about a single unitary in Norfolk. On their website Norwich City Council suggest that there would be a risk "of a large, unwieldy and remote council – contrary to the Government drive for increased neighbourhood engagement."

²¹ see paragraph 4.7 of the minutes of 15th June 2009 Boundary Committee meeting (Appendix 18)

²² See, for example, para 3.5 of the minutes of the Boundary Committee meeting on 3rd June 2009 (Appendix 19)

original recommendation or advice “while we take no view as to the optimum size of unitary authorities, a county unitary with a population of approximately 800,000 and a large geographical area represents challenges to effective strategic leadership and neighbourhood empowerment”²³. The Boundary Committee’s decision to depart from their own officer’s advice is recorded in the minutes of the meeting dated 21st May 2008 although surprisingly the Boundary Committee do not set out the reasons for their decision to reject this advice nor do they describe the evidence upon which this decision was based.

39. There is no evidence that a Council on this scale is a viable, workable option. It is high risk, untried and untested. Norfolk deserves better than to be an experiment (Appendix 20: Leech Report). As the Boundary Committee themselves point out there is stronger feeling in Norfolk than in the other counties under review (see paras 34 - 35). There is a reason for this, the same reason that the Committee received a lot of feedback from the west of the county. This is not because of any council-led campaign, it’s because people call it as they see it. The west of Norfolk is as close in travel time to Lincoln or Camden as Great Yarmouth. Why would people not express concerns that have built up over years of fighting for a fair level of resourcing?
40. This is only a surprise to the Boundary Committee because they have completely misunderstood the social-economic geography of Norfolk and the way people live their lives. We have not. Norfolk is our patch. One of the benefits of the current local government bodies is that they have this accumulated understanding of the people they represent and the county in which they live. We presented the Boundary Committee with reams of independent evidence illustrating the geographical make-up of Norfolk with our conclusion that Norfolk is not an area that lends itself to unitary local government. It has apparently been ignored.
41. Based on these factors we believe it is impossible to conclude that this criterion has been met.

Neighbourhood empowerment

42. “The Secretary of State took the view that a single unitary authority would be too big, and there were risks that the authority would be seen as remote by local people and hence less able to deliver neighbourhood empowerment.”²⁴ The area under discussion is Cheshire, although the same argument was cited in respect of Cumbria and North Yorkshire. Norfolk is 260% bigger than Cheshire in area and 120% larger in population. It is twice the size of the sovereign state of Luxembourg with twice the population. Hampshire would fit into Norfolk with room left over for Greater London, too, which itself fits into Norfolk several times. If Cheshire is perceived as being ‘too big’ for a single

²³ The original recommendation was for a two unitary, ‘East-West’ solution in Norfolk, one which may ultimately have garnered significant support in Norfolk, see BCFE(08)14 report to 21st May Boundary Committee meeting (Appendix 8)

²⁴ See Appendix 21 for the reasoning set out in the Secretary of State’s letter to Cheshire councils

council to deliver neighbourhood empowerment then the same conclusion is irresistible in relation to Norfolk.

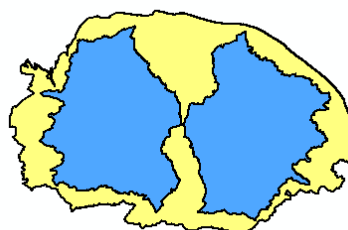
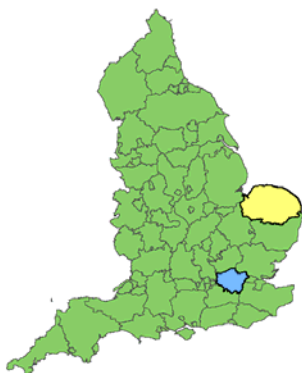


Fig 1: Map showing the size of Norfolk by comparison with Greater London, twice

43. Max Caller has been quoted (Appendix 15) as saying that some early proposals (for more than one unitary council in Norfolk) “came with plans for the co-ordination of strategic issues that pretty much mirrored having a county council over the top”. However, Max Caller’s own recommendation, by calling for the provision of five area boards and more than 21 community partnerships within a single county unitary structure, is significantly more complex than the existing structure of a county council operating effectively with seven district councils.

44. The logical conclusion is that the Boundary Committee are simply making up the rules. The only way to achieve neighbourhood empowerment under a single unitary is to create a structure with nearly 30 overlapping elements instead of eight. We do not believe this will reduce public confusion, increase local accountability, achieve efficiency savings, deliver genuine empowerment or enable greater devolution of decision-making and budgets. Indeed in the new unitaries it is this element of their proposals that is the slowest to be established and the most vulnerable to budget pressures.

45. Hazel Blears is quoted as saying that ‘without local democracy there is no democracy’²⁵. Until the 1970s, Norfolk’s population (627,000 in 1971) was served by 31 councils and 1,174 councillors, or one for every 534 people. Proposals for 84 councillors²⁶ in a county-wide unitary of 840,000 people would provide one councillor for every 10,000 people - a democratic reduction of nearly 95% over this time period. We can not see how these proposals help achieve neighbourhood empowerment within the fabric of a democratic society.

46. Based on these factors we believe it is impossible to conclude that this criterion has been met.

²⁵ Speech to Local Government Association conference, ‘Local Democracy in the 21st Century’, 3rd July 2008

²⁶ DCLG Letter to Norfolk Chief Executives (6th January 2010) “Proposals for Unitary Local Government in Norfolk: Draft Structural Change Orders”

Affordability

47. Our headline concerns are these: by vesting day for the proposed new unitary council the financial case will be four years out of date, four years of the most tumultuous seismic change in terms of national and local economic conditions. During this period Norfolk's council's have already stripped a further three year's efficiency savings out of their budgets. Council tax payers will have legitimate expectations of levels of savings which, having been based on flawed data, can never be realised.
48. The Boundary Committee recognise that the financial information they are working with is increasingly out of date when they meet in January 2009²⁷: "there was a discussion about the change in the financial climate... it may be that further consultation would be needed to obtain data from current authorities on whether their balances had been dramatically affected by recent events". At this point in the process, following the judgement of Justice Cranston in the East Devon judicial review, there was sufficient time for the Committee to request updated financial information; shortly afterwards it was clear that the deadline for the provision of advice would be extended by a further five months to the 15th July 2009. No such request was ever forthcoming from the Committee.
49. The Boundary Committee met on 15th June 2009 to consider, inter alia, the new report of its Independent Financial Consultants (IFCs). The minutes record that the IFCs indicated that there were a number of common concerns that had been raised in relation to the financial issues which we have not seen satisfactorily addressed:
- Concerns over the synopses of costs and savings
 - How the Secretary of State's approach to "in aggregate" would work in practice in relation to the affordability criterion
 - Concern that no comparison was being made with the status quo in the affordability analysis
 - Concerns about the use of shared services
 - Concerns about value for money in changing to a unitary structure; and
 - Concerns that the affordability analysis took no account of the changed economic climate.
50. The Boundary Committee's Independent Financial Consultants (IFCs) "have already concluded that the Secretary of State should review the current state of finances of constituent authorities prior to making any decision on submissions"²⁸, and repeatedly urged the Secretary of State to "assure himself that the theoretical savings" based on 2007/08 data are actually achievable in 2011/12, the first year of the new councils.

²⁷ Minutes of Boundary Committee meeting 20th January 2009 BCFE(09), para 3.8 (Appendix 10)

²⁸ Summary Reports (N1-N4) of the Independent Financial Consultants, 10th June 2009, published 7th December 2009

51. We are prepared to respond to your requests for evidence (see para 78). Pulling together a summary of the information that is needed before decisions are made, it is reasonable to assume that no decision will be made without:
- Updated base line information on the costs and savings directly resulting from the proposed change
 - An updated model of financial transitional planning
 - A full business case outlining the vision for the new unitary council(s) with plans to show how that vision is to be achieved with a supporting transitional plan
 - Information from the 2009 round of reorganised councils on the extent to which the previously estimated figures of costs and savings were accurate and are being realised, and whether the financial position of the unitary councils is as predicted
 - Information from the 2009 round of reorganised councils on the impact of the change on frontline services and clients
 - The current and projected financial position of the constituent Norfolk councils
 - Clearly taking account of all the risks identified by the Boundary Committee's IFCs
52. Without assurances on all these points it is not possible to be sure that a decision to change structure will not have unforeseen financial and service consequences for the new council.
53. The financial points above are compounded by the Boundary Committee's IFCs who state²⁹, in response to your guidance on aggregation "this is a fundamentally different approach from that implied in the initial guidance, so different that it seems that, had that been the intention, it would have been essential for the Secretary of State to have made her intentions clear at that time. The detail of what is now said to be the intention could not have been concluded from the guidance set out on 6th February without some more detailed guidance at that stage to make the intention clear."
54. This is particularly important given the disclosure of the IFC that they had massaged the figures: the 5th December 2008 note from Chris Wheeler to Alison Wildig³⁰ states "in the financial modelling which we undertook, we were at pains to present the figures as well as possible to the new unitary's advantage." This indicates that the IFC's analysis on the affordability of the various unitary options was neither objective nor reliable, but was in fact simply aimed at proving the Boundary Committee's point.
55. In economic and financial terms the world has turned on its head in the three and a half years we have been engaged in this process, and yet at no stage has this been factored into any of the Boundary Committee's work. As a result the Committee's work, through the IFCs, on affordability and the conclusions it derives from that work are a significant

²⁹ Chris Wheeler (Independent Financial Consultant), Note to Alison Wildig (Boundary Committee) "Initial comments following review of the Secretary of State's letter and guidance dated 5th December 2008" (Appendix 22)

³⁰ Ibid

distance from the current reality. Indeed, the Committee's own officers note³¹ that "a common theme in representations from local organisations was that the costs of the review and the cost of implementing any new authority could not be justified in the current financial climate".

56. Any judgement of affordability, pay back or service models based on significantly outdated information must be flawed. The financial workbooks were prepared in September 2008 with 2007/08 as the base year. We are now, of course, finalising budgets for 2010/11. At best therefore, the basis for costs/savings has no more credibility than a theoretical model. There have of course been changes in context since that time, including new budgets and actuals, the recession and credit crunch, and councils have had to adjust their own financial planning accordingly.
57. Based on these factors we believe it is impossible to conclude that this criterion has been met.

Value for money & equity

58. A study by management consultancy McKinsey, which looked at over 100 mergers in Britain and the US, concluded that only 25% recovered the cost of the deal or achieved the efficiencies promised by management. Getting bigger is not a panacea: "One of the main rationales for centralisation was the claim that there are economies of scale in service delivery. Surprisingly, however, there is no evidence for economies of scale in the main services that have been centralised, and the only detailed analyses that have been done show very few, if any, economies of scale above the very smallest district councils."³²
59. The first Comprehensive Area Assessment reports³³ for the new unitary councils show that the transition process has a negative impact on service quality and cost:
- In Northumberland the council now "faces very serious financial pressures. It estimates it will have to make savings of around £33 million. These pressures will inevitably affect how far the council can carry out all its plans", and "...the cost of services is generally above average".
 - In Durham "the transformation process is likely to take another two years to complete", "only 29% of waste from households was recycled. This is poor value for money."
 - In Cornwall "only two national indicators showed progress over the last year".
 - In Cheshire West "there are significant challenges around achieving the savings built into the budget".

³¹ BCFE(09)29 report to Boundary Committee meeting 3rd June 2009, Para 21 (Appendix 23)

³² Mulgan, G and Bury, F (2006) 'Local Government and the case for double devolution', in 'Double Devolution' Ed Geoff Mulgan & Fran Bury, The Smith Institute

³³ Available at www.oneplace.gov.uk

- In Cheshire East “less than a quarter of residents think the council provides value for money”, and “extra costs [were identified] and this is placing extra pressures on the 2009/10 budget”.
- In Bedford “services provided to vulnerable adults are poor”.
- In Central Bedfordshire “more money will be spent than is budgeted for”.

60. Now is simply the worst time for re-organisation, especially re-negotiating fixed income contracts. In none of the new unitaries has the council tax gone down, and implementation costs have generally soared above the original estimates.

61. Based on these factors we believe it is impossible to conclude that this criterion has been met.

Comparisons with the Status Quo

62. It should be remembered that the Boundary Committee have a discretion rather than a duty whether to make an alternative proposal to the Secretary of State, see section 5(2) of the 2007 Act. The Boundary Committee do not appear to have appreciated this. There is no evidence that the Boundary Committee have assessed whether they should exercise their discretion. The Secretary of State requested their advice and they appear to have decided that they were bound to provide it. However, the statutory scheme clearly envisages a choice whether to provide such advice.

63. When exercising this discretion, a crucial issue is whether any potential unitary authority would be better than the current two tier scheme. If it is unlikely to be better, it is likely to be a waste of time and money formulating an alternative proposal. The Boundary Committee failed to address this issue at the start of the process. Once the Boundary Committee decided to make an alternative proposal, it is imperative, when considering this draft alternative proposal, to consider whether, and in what ways, it is inferior or superior to the status quo two tier scheme of local government.

64. Indeed, the DCLG letter of 13 August 2008 (Appendix 13), indicates that such a comparison is appropriate: “any comparison of the relative merits of the status quo with a single tier of local government is likely to be most constructive if made after a draft alternative proposal has been formulated. Now that a draft alternative proposal has been published, it is clearly open to interested persons in making representations to express their views as to the merits of the alternative proposal, were it to be implemented, compared to the existing two-tier system. The Boundary Committee must of course take into account any such representations”. It should be noted that such representations were made by our councils, amongst others, but there is no evidence that the Committee took these into account.

65. The Boundary Committee acted on the basis of Cranston J's judgment in *Breckland and East Devon* that they were not required to consider the status quo (ie, two-tier local government). However the Court of Appeal did not uphold Cranston J's conclusions (see paragraphs 90-93³⁴ of the Court of Appeal's judgment). The Court of Appeal provided a number of examples of implicit comparisons with the status quo required of the Boundary Committee during the course of its work which, although it was of the view that the Boundary Committee was not required to carry out a blanket comparison with the status quo, we would expect to see evidence of:
- Material representations from stakeholders and consultees
 - Whether there is reasonably likely to be a broad cross section of support of partners and stakeholders
 - Whether the unitary proposal can achieve value for money in the sense of revenue savings as a result of restructuring
 - Whether the unitary proposal would achieve value for money and equity in public services in the sense that the proposed unitary structure would be as good as or better than what came before and at less cost.
66. In its Advice the Boundary Committee appears to make a point of emphasising that it has taken notice of the Court of Appeal's guidance on the status quo, despite the content of its 19th March 2009 further draft proposals. For example, paragraph 2.36 of the Advice states "during the course of the review, we have heard about the merits of the current system of local government in Norfolk: the existing county and district councils. It is clear that there is strong support for the existing system. We have taken all these representations into account when formulating our advice to the Secretary of State as they have a bearing on whether any pattern of unitary local government is likely to deliver the outcomes specified by the criteria, notably in relation to broad cross-section of support, affordability and value-for-money services."
67. Despite this the Boundary Committee's minutes between 19th March and 7th December 2009 offers nothing to demonstrate that the Boundary Committee actually did make any comparison with the current two-tier system of local government in relation to the five criteria. As a principle of good decision-making, how can you decide that one course of action will result in an improvement over the current state of affairs, without some level of comparison?
68. At its meeting on 15th June 2009 the Boundary Committee considered an officer's report which in part discussed the need for consideration of the 'status quo'³⁵. The authors of the

³⁴ See *R(Breckland DC) v The Boundary Committee* [2009] EWCA Civ 239 at paras 90-93. The Court of Appeal make express reference to the need for such comparisons in relation to the "broad cross section of support", "affordability" and "value for money" criteria however, they also suggest that other comparisons are implicit (see last sentence of paragraph 92). The Boundary Committee appear to have ignored this guidance and only considered comparisons with the status quo on three of the five criteria (Appendix 24).

³⁵ Report to 15th June 2009 Boundary Committee meeting BCFE(09)35 para 49-52 (Appendix 16)

report state their difficulty in undertaking this comparison in respect of the strategic leadership and neighbourhood empowerment criteria; we see no reason why this should have been difficult, had they addressed their minds to it.

Neighbourhood Empowerment

69. Citizens and communities will not be empowered if decision-making becomes more distant from the citizens and communities in Norfolk than they currently are (para 12). Thus, this criterion implies the need for a comparison with the present level of neighbourhood empowerment within Norfolk. The Boundary Committee's analysis fails to make such a comparison.

Strategic Leadership

70. It is implicit in this that any unitary should provide stronger, more effective and accountable leadership than the current system. In light of the 12th September 2009 decision by Norfolk County Council to oppose unitary local government this should by 7th December have been a very easy comparative exercise. However, no such comparison is made by the Boundary Committee to demonstrate how this would be achieved.

Affordability

71. The officers' report goes on to say that such a comparison is inherent in the work of the IFCs with regard to the affordability criteria; the IFC reports published in December 2009 state unequivocally on several occasions that this was a matter for the Committee not them. From the recent pre-budget report and all the surrounding commentaries, it is clear that the fiscal regime for public services, and general local government services particularly, will become ever tougher. Councils will need radical solutions to these issues if they are to minimise impact on front line service delivery. Innovative service delivery models have to be found, and back office and support services will be reshaped. Norfolk's councils have been working together on these opportunities and progress made to date – despite the threat of re-organisation – would be lost through the resultant disruption should it go ahead. The Boundary Committee have not made these comparisons.

Cross-section of support

72. The majority of respondents to the Boundary Committee's consultation want to retain existing arrangements. This is consistently borne out in opinion research (Appendices 11 and 12). Such comparisons with existing arrangements, whilst explicit, have been ignored by the Boundary Committee. Indeed, our submission of Ipsos-MORI research into the views and attitudes of local people to the proposals didn't even warrant a response from the Boundary Committee, nor, according to the minutes, has it been discussed at their meetings, even though it was received in sufficient time to allow its findings to be acknowledged and considered.

Value for Money and Equity

73. The Boundary Committee state that services 'would have the capacity to be as good as or better than those presently provided'. We have requested the evidence to support this

assertion which implies some comparison with existing arrangements must have been made. Without this evidence we are led to the conclusion that it is at best an assertion not grounded in any objective assessment.

74. It could just be there are some areas where two-tier local government works. We have been here before in Norfolk, and no implementable unitary solution emerged from the pre-1974 and 1994 (Banham) reviews. The latter concluded that “It is clear that there is overwhelming support for the retention of the existing two-tier structure of county and district councils. Taking this into account, and considering all the other evidence in the light of the statutory criteria, we are recommending no change to the present structure of local government in the area... the manner in which any given structure is managed is probably as important as the structure itself... In particular we would like to see more management authority and responsibility devolved to local communities...”³⁶
75. It is ironic that many the elements set out in broad terms in the Boundary Committee’s report, such as an enhanced role for town and parish councils, the development of neighbourhood partnerships etc do not require re-structuring to be achieved.

Options

76. You will be aware that there are three decisions available to you in respect of the future structural arrangements for local government in Norfolk, as set out in the Local Government and Public Involvement in Health Act (2007), together with the option of going back to the Boundary Committee for further information.

Request further information from the Boundary Committee

77. We believe that, before you make any decision, you should request further evidence from the Boundary Committee under section 7(6) of the Act to help you with your assessment, whether you are minded to accept the Boundary Committee’s arguments for a county-wide unitary council or take any of the other options available to you. We believe that all the preceding evidence shows this is a minimum requirement.
78. The IFCs have repeatedly stated that certain issues we have raised are the responsibility of either the Boundary Committee or the Secretary of State; the Boundary Committee have repeatedly said that certain issues are for the IFCs or the Secretary of State; yet at no point in their report have the Boundary Committee actually drawn these to your attention.
79. These issues remain unresolved through this process and as they need to be addressed we have summarised them below. As they are areas that we think are central to coming to a sound decision we ask that you request and consider the following missing evidence.

³⁶ Sir John Banham letter to Secretary of State, 15th December 1994 (Appendix 25)

Criteria	Evidence
Boundary Committee evidence supporting their conclusion	Not provided by Boundary Committee
Business case for the alternative proposal (a single county unitary)	Does not exist
Updated financial information and modelling to reflect budget changes since 2007/08	Does not exist
Updated financial modelling taking into account economic climate	Does not exist
Consideration of impact of three years of efficiency savings on forecasts	Not provided by Boundary Committee
Comparison with status quo required by Appeal Court and requested by IFCs	Does not exist
Response to our 15 questions submitted under cover of a letter of the 28 th May 2009 to the Boundary Committee (Appendix 26)	Have not received a response from Boundary Committee
Response from IFCs to Colin Bland's letter of October 2008	None provided by Boundary Committee
Comparison with previous round of transition councils to build in learning about what works	Not done by Committee
Assessment of impact of changing the start date from original 2010 start date to 2011	Does not exist

80. This half-page table summarises a very considerable number of omissions in complicated and detailed information, without which we believe you cannot rationally conclude that a county unitary would be affordable. We urge you, before making a decision, either to request that the Boundary Committee address these issues or to address them yourself, through suitably qualified experts. You will then be in a position to consider which of the following is the most appropriate option.

Implement the original proposal for a unitary Norwich on existing boundaries

81. Under section 7(1)(a) of the Act you could implement the original proposal for a unitary Norwich with or without modification. If you take this decision it means that:

- Your predecessor as Secretary of State was wrong to turn down the original Norwich proposal (Appendix 27: Ministerial letter to Norwich City Council)
- The Boundary Committee's Advice at para 2.39 of its Advice to you is wrong
- The Boundary Committee have reached the wrong conclusion in recommending a mega-council solution at para 3.3 of their report
- Public opinion can be ignored in coming to a decision about local democracy (Appendix 11: YouGov Report; Appendix 12: Ipsos-MORI Report)

- The desire of Norwich City Council for a unitary Norwich outweighs the needs of the remaining 720,000 people who live in the rest of Norfolk
- You have access to evidence which up until now has not been forthcoming to either the Boundary Committee, Norfolk's councils or any of your predecessors; you will be able to explain what has changed.

82. It is worth remembering the conclusion of the 1995 Local Government Commission for England: "Norwich is especially complex. Its stature as a city argues for unitary status, but its centrality in its county argues for the two-tier arrangement". This is the argument in a nutshell; good in theory, unworkable in practice.

Implement the Boundary Committee's Alternative proposal for a single County unitary

83. Under section 7(1)(b) of the Act you could implement the Boundary Committee's alternative proposal with or without modification. If you take this decision it means that:

- You are prepared to go against public opinion and that of the significant majority of stakeholders (Appendix 11: YouGov results; Appendix 12: Ipsos-MORI report)
- You can justify to the people of Norfolk why you are using them as an experiment (Appendix 20: Leech Report)
- You are prepared to take a risk with local democracy and local services on an untried and untested scale
- You are prepared to undermine local democracy through a significant reduction in the number of local councillors in Norfolk and the creation of a complex structure of area panels and bodies with members that are unelected and unaccountable
- The Boundary Committee have done a thorough, evidence-based job and you have confidence in their recommendations (Appendix 28: List of Correspondence; Appendix 29: Critique of Options)
- The current levels of efficiency savings and examples of innovative joint-working in Norfolk are not enough
- This option is implementable without a lead Norfolk Council (Appendix 2)
- Your assessment of the original Norwich proposal on existing boundaries was correct and does not make sense
- You have satisfied yourself of the robustness and validity of the financial case for the single county unitary in light of the economic recession, its impact on the financial position of the Norfolk Councils and their ability to meet the upfront costs of transition (Appendix 30: Nigel Pursey's report)
- Previous decisions in Cheshire and Bedfordshire were wrong (Appendix 21: Cheshire decision letter)
- You are happy to accept advice from the Boundary Committee which fails Max Caller's own test of stakeholder support (Appendix 15: Max Caller's article)

Decide not to implement structural change

84. Under section 7(1)(c) of the Act you could decide to take no action and make a positive decision *not* to implement a unitary council in Norfolk, ie retain existing arrangements. If you take this decision it means that:

- You respect public opinion
- Neither the original Norwich proposal, nor the Boundary Committee's alternative proposal for a single county unitary, are viable options for Norfolk
- You recognise that significant efficiency savings have already been made across Norfolk since 2007/08 without the need for structural change
- Progress has been made by Norfolk's councils in joint working and collaboration
- Both of the above have been achieved despite the uncertainty of this tortuous review process (Appendix 3: Key Dates and Events; Appendix 28: List of Correspondence)
- There is a need to retain local democratic accountability as the bedrock of society in this country (Appendix 20: Leech Report)
- The original Norwich bid remains flawed and unaffordable

85. We are working together, as local authorities that understand Norfolk and its complexity to deliver an enhanced status quo, with 'right sized' shared services, shared officer arrangements and other low cost/high impact changes that will deliver cost reductions without the need for massive upheaval, a loss of democratic representation and multi-million pound transition costs.

86. In these circumstances we would ask you to recognise and support Norfolk's councils in their on-going programme of collaboration and achievement of efficiency savings, and determine to leave arrangements as they are. Perhaps you are of the view that there could be a potential unitary option for Norfolk, but that it simply can not now be delivered through this process. The inevitable, logical and popular conclusion, even without the multiple failures of process, is that the current system works in Norfolk.

Conclusion

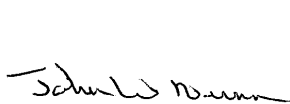
87. Norfolk's Councils³⁷ were never dogmatically opposed to the concept of unitary local government *per se*, a fact supported by the extent of initial engagement with the Boundary Committee and the innovative thinking that characterised elements of the original unitary concepts that were submitted to the Committee. One by one Norfolk's councils have disengaged from the process as the extent to which it was fundamentally flawed came into focus and as more and more of our questions went ignored and unanswered by the Committee³⁸.

³⁷ With the exception, that is, of Broadland Council, who were opposed to the process from the start

³⁸ See Appendix 28: List of Correspondence for detail

88. Ironically, this process has now succeeded in uniting all eight Norfolk councils in a common view – that the Boundary Committee has got it wrong. We believe that a sound process, properly followed by the Committee, encouraging collaboration between councils and communicating with the public, would have had the greatest chance of coming up with a workable unitary solution for Norfolk.
89. This accounts for the requirement to challenge the process legally. The people of Norfolk do not want to be served by a system of local government designed through an irrational and flawed approach; nor do they want to be part of a conceptual experiment testing the relationship between size and efficiency; nor do they want to be part of an illogical and insensitive Whitehall experiment in local administration – particularly when it is their cash that is at risk.
90. Fortunately there is a solution available to you, one that will gain widespread public support, save millions of pounds of taxpayers' money, result in improved services and strengthen local democracy. This is the only rational solution left at the end of an irrational process. That is to decide to take no action (section 7(1)(c) of the Act).
91. We therefore submit to you, in the form of a series of appendices referenced above, our evidence that structural change in Norfolk is not wanted, has no clear measure of public support, has no champion for its implementation, would disrupt service delivery at the very time the public are relying on services more than ever and is based on an out-of-date financial assessment.
92. On behalf of the people of Norfolk, who we all serve, and whose voice has been sadly consistently ignored throughout this process, we ask that you draw the only sensible conclusion available to you and, at long last, inject some logic and sense into this process. We ask you to decide to leave the existing structural arrangements for local government in place in Norfolk.

Yours sincerely,



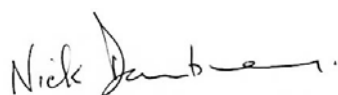
Cllr William Nunn
Leader, Breckland District
Council



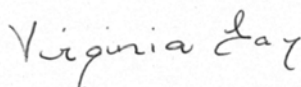
Cllr Simon Woodbridge
Leader, Broadland District
Council



Cllr Barry Coleman
Leader, Great Yarmouth
Borough Council



Cllr Nick Daubney
Leader, King's Lynn & West
Norfolk Borough Council



Cllr Virginia Gay
Leader, North Norfolk
District Council



Cllr John Fuller
Leader, South Norfolk District
Council