

HOUSE OF LORDS

Merits of Statutory Instruments Committee

12th Report of Session 2009-10

Drawing special attention to:

Draft Exeter and Devon (Structural Changes) Order 2010

Draft Norwich and Norfolk (Structural Changes) Order 2010

Report and Evidence

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The Select Committee on the Merits of Statutory Instruments

The Committee has the following terms of reference:

- (1) The Committee shall, subject to the exceptions in paragraph (2), consider—
 - (a) every instrument (whether or not a statutory instrument), or draft of an instrument, which is laid before each House of Parliament and upon which proceedings may be, or might have been, taken in either House of Parliament under an Act of Parliament;
 - (b) every proposal which is in the form of a draft of such an instrument and is laid before each House of Parliament under an Act of Parliament,with a view to determining whether or not the special attention of the House should be drawn to it on any of the grounds specified in paragraph (3).
- (2) The exceptions are—
 - (a) remedial orders, and draft remedial orders, under section 10 of the Human Rights Act 1998;
 - (b) draft orders under sections 14 and 18 of the Legislative and Regulatory Reform Act 2006, and subordinate provisions orders made or proposed to be made under the Regulatory Reform Act 2001;
 - (c) Measures under the Church of England Assembly (Powers) Act 1919 and instruments made, and drafts of instruments to be made, under them.
- (3) The grounds on which an instrument, draft or proposal may be drawn to the special attention of the House are—
 - (a) that it is politically or legally important or gives rise to issues of public policy likely to be of interest to the House;
 - (b) that it may be inappropriate in view of changed circumstances since the enactment of the parent Act;
 - (c) that it may inappropriately implement European Union legislation;
 - (d) that it may imperfectly achieve its policy objectives.
- (4) The Committee shall also consider such other general matters relating to the effective scrutiny of the merits of statutory instruments and arising from the performance of its functions under paragraphs (1) to (3) as the Committee considers appropriate, except matters within the orders of reference of the Joint Committee on Statutory Instruments.

Members

The members of the Committee are:

Rt Hon. the Baroness Butler-Sloss GBE	The Baroness Morris of Yardley
The Baroness Deech DBE	The Lord Norton of Louth
The Lord Hart of Chilton	The Lord Rosser (<i>Chairman</i>)
The Lord James of Blackheath CBE	The Lord Scott of Foscote
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Declared interests for this Report are in Appendix 6.

Publications

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Statutory instruments

The Government's Office of Public Sector Information publishes statutory instruments on the internet at www.opsi.gov.uk/stat.htm, together with an explanatory memorandum (a short, plain-English explanation of what the instrument does) for each instrument.

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Twelfth Report

INSTRUMENTS DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

The Committee has considered the following instruments and has determined that the special attention of the House should be drawn to them on the grounds specified.

Draft Exeter and Devon (Structural Changes) Order 2010

Draft Norwich and Norfolk (Structural Changes) Order 2010

Summary: The Department has proposed the creation of two unitary councils, in Exeter and Norwich, which do not conform with all of the Department's five published criteria. In these circumstances we would have expected the DCLG to have set out a more detailed case for the proposed course of action than the assertion of "compelling reasons" with little supporting evidence. The parts of the explanatory material to which this Committee routinely looks for evidence to support a policy proposal, in particular the Impact Assessment and the outcome of consultation, do not in our view combine to make a clear, evidence-backed case for the proposal. The Department's response to our supplementary questions (see Appendix 1) has failed to provide more robust evidence. The Committee therefore remains unclear how unitary status is expected to solve the problems identified in relation to each city, without creating unacceptable consequences elsewhere. We also draw the House's attention to the intention to cancel forthcoming council elections in each area.

The Committee emphasises that it is not our role to reach a view on whether some form of unitary status is right in these circumstances, but to draw to the special attention of the House issues which it may wish to take into account when reaching its decision on the specific proposals in these Orders. We also note, from the evidence sent to us (see Appendices 2 and 3), that the circumstances of Exeter and Norwich are different; and that the issues we raise affect each Order to differing degrees.

These Orders are drawn to the special attention of the House on the grounds that they give rise to issues of public policy likely to be of interest to the House and that they may imperfectly achieve their policy objective.

1. The Department for Communities and Local Government (DCLG) has laid these Orders under section 2 of the Local Government and Public Involvement in Health Act 2007 ("the Act") along with an Explanatory Memorandum (EM) and an Impact Assessment (IA). These two affirmative instruments provide for a single tier of local government in the cities of Exeter and Norwich with effect from 1 April 2011; with the existing functions of Devon County Council as they relate to Exeter being exercised by Exeter City Council, and the existing functions of Norfolk County Council as they relate to Norwich being exercised by Norwich City Council. Paragraphs 7.1-7.16 of the EM set out the process used in selecting these two cities for conversion to unitary authorities.
2. It is not the Merits Committee's role to reach a definitive view on whether unitary status is right in these circumstances, but rather to draw the special attention of the House to issues which it may wish to take into account when

considering its decision on these Orders. For any instrument we routinely consider how the practical implementation of the policy objective has been addressed and whether, on the basis of the evidence provided, it seems likely to achieve it. The two Orders were laid on the same day, announced in the same Written Statement, and are accompanied by a joint EM and IA. This report covers both Orders. However, the House should be clear that the two Orders are not tied together. As the evidence we have received makes clear, the two cases are different; and each Order is affected to a differing degree by the issues we raise.

3. The concept of a unitary authority is not new: there are over 50 such authorities in operation. Since the application process was revised by the Local Government and Public Involvement in Health Act 2007, the Merits Committee has considered seven such Orders.¹ In the previous cases the decision letters made clear that the Secretary of State's agreement to the proposal proceeding had been dependent on the bid seeming likely to satisfy the "five criteria" set out in the 2006 document *Invitations to Councils in England*:
 - the change to future unitary structures must be affordable; (defined as self-financing, with transitional costs being more than offset by savings over no more than 5 years)
 - be supported by a broad cross section of partners and stakeholders;
 - future structures must provide strong, effective and accountable strategic leadership;
 - deliver genuine opportunities for neighbourhood flexibility and empowerment; and
 - deliver value for money and equity on public services.²
4. What is unusual in this instance is that the decision letters say that, although neither Exeter nor Norwich seems likely to meet the affordability criterion, and that Norwich also fails to meet the value for money services criterion, the Secretary of State has nonetheless put these Orders before Parliament. Paragraph 7.16 of the EM, and a Written Statement by the Minister on the day that they were laid, set out the two "compelling reasons" given to support this decision.³
5. Since the instruments were laid a joint Judicial Review of the Secretary of State's decision has been launched by Devon and Norfolk County Councils. It is understood that the hearing will not take place before 26 April.⁴ Similar circumstances applied when this Committee considered the Bedfordshire (Structural Changes) Order 2008.
6. To assist in our assessment of the Orders the Committee issued a short call for evidence inviting comment on the practicalities of the implementation of

¹ See for example previous Merits Committee reports on Structural Changes Orders: Bedfordshire (15th report of session 2007-08), Cheshire (10th report of session 2007-08) and Cornwall, Durham, Northumberland, Shropshire and Wiltshire (7th report of session 2007-08)

² <http://www.communities.gov.uk/documents/localgovernment/pdf/153400.pdf> 26 October 2006, page 10

³ HL Debates 10 February 2010, col 49- 52 WS

⁴ A number of Judicial Reviews have already taken place. They are listed in DCLG's response at Appendix 1.

the proposals as presented to Parliament. This material is printed in Appendices 2 to 4. Time did not allow a systematic consultation exercise so the response is not necessarily representative, but we received much useful information which helped us better to understand what the perceived impact of the Orders would be and the likelihood of their successful implementation in the local area. We are very grateful to all those who contributed at short notice, including Members of this House and of the House of Commons. DCLG were also invited to provide supplementary information on a number of points, which is published at Appendix 1.

Previous Practice

7. The 2006 *Invitations* resulted in 26 proposals from councils wishing to move to single tier status. The procedural guidance says that⁵:

“Where following the re-assessment the Secretary of State concludes that there is not at least a reasonable likelihood of a proposal, if implemented, achieving the outcomes specified by the five criteria, it will not proceed to implementation.” *[emphasis added]*

The DCLG website⁶ confirms that all the proposals were assessed against the criteria set out in the *Invitations* and 16 progressed to the second stage as a result.

8. Paragraph 17 of the guidance also provides for the situation where there was a choice of solutions, all of which satisfied the five criteria.⁷ This is illustrated in the decision letter to Cheshire County Council⁸, which said that “The Secretary of State remains of the view that, on balance, the proposal for a two-unitary Cheshire will deliver to a greater extent the long-term outcomes specified by the criteria”. No supplementary reasons were given for deciding between bids, only the degree to which they satisfied certain of the five criteria. **The proposed implementation of bids which do not conform with all five criteria and the introduction of additional reasons for selection would therefore appear to be contrary to previous practice.**

Alternative solutions from the Boundary Committee

9. When considering an application, section 4 of the 2007 Act allows the Secretary of State to ask the Boundary Committee for its advice, which may include an alternative proposal for a unitary structure within the county. However he is not obliged to accept it: section 7 gives him the option to implement the original proposal or the Boundary Committee’s alternative proposal, with or without modification, or to decide to do nothing.
10. In the case of both Exeter and Norwich the advice of the Boundary Committee was sought and resulted in alternative recommendations, for the Devon and Norfolk County Councils to be given unitary status. The Boundary Committee said that, following its own consultation on alternative proposals, it believed such a solution would satisfy all five criteria. In his Written Statement to Parliament (col 50WS) the Secretary of State disputes

⁵ Proposals for Future Unitary Structures; Means of Prioritising Proposals, paragraph 16 <http://www.communities.gov.uk/documents/localgovernment/pdf/324437.pdf>

⁶ <http://www.communities.gov.uk/localgovernment/strategies/strongprosperous/publications/policydocuments/decisionletters/>

⁷ Proposals for Future Unitary Structures; Means of Prioritising Proposals, paragraph 17

⁸ 18 December 2007 <http://www.communities.gov.uk/documents/localgovernment/pdf/618343.pdf>

this conclusion and rejects the proposal for Norfolk on the basis that it is unlikely to deliver the broad cross section of support criterion. The Boundary Committee's alternative proposal for Devon is rejected for being unlikely to meet both that and the neighbourhood engagement criterion. Our request for further explanation produced only a brief response (Appendix 1, A3), which indicated that in the Minister's judgement the unitary council option did not command the support of any of the principal councils. The correspondence included along with this report may help the House form its own view on this, **but we would have expected DCLG to set out in more detail the basis for setting aside the Boundary Committee's recommendation.**

"Compelling reasons"

11. The Government's Written Statement freely admits that the decisions on Exeter and Norwich have departed from the presumption that unitary proposals which do not meet all five criteria are not to be implemented, but states that there are two additional "compelling reasons" to justify bringing these Orders forward.
12. The first "compelling reason" is "the priority for jobs and economic growth which could not be contemplated in 2006 when the criteria were developed". The DCLG says that it has been made clear to them by the representations they have received that, as unitary authorities, the two cities would be "a far more potent force" for delivering positive economic outcomes. At the Committee's request DCLG has provided an explanation for this statement (Appendix 1, A2) but in each case this is given as an unquantified assertion. We are not aware that this rationale has previously been articulated so as to allow others to comment on it. From the responses we have received there is some dispute about how the projected economic growth of the area is to be attributed. Several letters (for example Appendix 2, items 3, 5 and 7; Appendix 3; items 54 and 56) claim that the majority of the new employment opportunities and developments that will attract jobs to the region are sited outside the city boundaries. To avoid the risk of double counting potential jobs, **it would be helpful to the House if DCLG would give a much more explicit analysis of how much economic growth each city, as distinct from each county, is expected to generate as a result of becoming a unitary authority.**
13. The second reason given is the Total Place approach where, as unitaries, the two cities "could open the way to improvements to the quality of public services". We asked how the change of status was likely to overcome the cost disadvantages in these areas, which is particularly pertinent to the evaluation of the Norwich bid since it was originally assessed as unlikely to meet the value for money service delivery criterion because of "the city's small population and the difficulty of managing cross-border issues". The DCLG response (Appendix 1, A2) simply repeats the wording of the written statement. It does not estimate any projected cost savings or efficiency gains.
14. Elsewhere in the response (A8) DCLG comments that in recent meetings both Devon and Norfolk County Councils mentioned several cross-boundary projects that integrated services, "exactly the kind of initiative that Total Place encourages". However DCLG said "the thrust of these representations was that these joint arrangements would achieve the same or better outcomes than a unitary council and hence the change to a unitary council was not necessary or appropriate". The Committee remains very unclear what value unitary status is supposed to add, when similar initiatives have already been

set up in each area. **The House may wish to seek a clearer explanation from the Minister as to why the Total Place approach is considered a compelling reason for granting each city unitary status.**

15. A view repeated in a number of the responses from the public is an expression of surprise at the late introduction of these new reasons. The letter from Devon County Council states that when they met the DCLG Parliamentary Secretary of State on 18 January 2010 “at no time did she suggest that the Secretary of State was planning to depart from his published approach” (Appendix 2, item 5). DCLG’s explanation, in the ninth paragraph of their supplementary evidence, that “neither the letter of 7 December 2009 nor the letter of 29 June 2009 expressly stated that a proposal judged not to meet the criteria would not be implemented”, fails to convince us that this was a transparent or well managed process. **The House may wish to consider the extent to which interested parties should have been given the chance to comment on and evaluate the “compelling reasons”.**

Consistency in decision-making

16. A third proposal was before the Minister at the same time. In a decision letter to all Suffolk local authorities dated 10 February 2010, the Secretary of State accepts that the Boundary Committee’s alternative proposal for giving the county unitary status will meet all five criteria, but concludes that the city of Ipswich’s bid is unlikely to reach the affordability criterion. The main distinction here is that there appears to be a general wish for some form of unitary structure, and on this occasion the Minister proposes to defer his decision and invite all the Suffolk councils to reach a consensus on a unitary solution for that area. Beyond that, no detailed explanation is given for this different treatment of apparently similar circumstances. When asked, DCLG gave no indication whether the “compelling reasons” would also be applied to Ipswich (Appendix 1, A1).
17. Most of the previous proposals were to convert the whole of the area involved into one or more unitary authorities. The exception was Bedfordshire, where the government recognised that the implementation of Bedford Borough Council’s proposal would leave the remaining part of the county adrift. In that case the Secretary of State invited Bedfordshire County Council and the two district councils for the residual area to also make a proposal for a unitary structure: this later became the new Central Bedfordshire unitary council. It is not explained why similar considerations have not been applied to the residual areas of Norfolk and Devon.
18. DCLG argues that the Minister is not taking a different approach to section 7 decisions in the latest case. In its supplementary evidence (Appendix 1, A1) it says that in 2007 the then Secretary of State recognised that she had flexibility to stick with the criteria or not, but she chose not to exercise it in her decisions. No published evidence is offered that supports this assertion. In a letter to the Secretary of State (referred to in more detail at paragraph 24 of this report), the Permanent Secretary gives his view: “Whilst there is no statutory basis for the criteria, there is a legitimate expectation that they will be the basis of your decisions. Your approach of implementing a unitary Exeter and Norwich, and not implementing a unitary council for Suffolk would be a departure from the criteria, and whilst I recognise you could adduce your reasons for this as public policy grounds for not meeting the legitimate expectation, my clear legal advice is that the risk ... of being

successfully challenged in judicial review proceedings is very high.” **The House may wish to consider whether there has been a consistent decision-making process.**

19. As well as the “five criteria” and “compelling reasons” considered above there are the standard criteria set out in the Explanatory Memorandum against which this Committee tests all SIs, such as the analysis of the impact and the outcome of the consultation exercise.

Consultation

20. Consultation exercises have been conducted at various stages in the process. The consultation exercise analysed in the Impact Assessment (EM pages 19-21) is the most recent one which took place after the Boundary Committee had published its recommendations for two county-wide unitary authorities, and ended on 19 January 2010. In both cases a clear majority of the over 2,800 responses preferred maintaining the status quo. We have asked DCLG to explain the rationale for proceeding in the face of this opposition. Their response (Appendix 1, A7) points to the Invitations which stated that “a change to unitary structure may not carry consensus from ... all sectors. While no single council or body should have a veto; the change ... should at least have a measure of support from a range of key partners, stakeholders and service users/citizens.” (paragraph 3.5). A more detailed analysis on a group by group basis is given in an on-line summary of responses.⁹ The Minister uses this analysis to justify his rejection of the Boundary Committee’s recommendations for county unitaries.
21. Our own brief consultation took place after the decision to implement only city unitaries had been announced. Within the cities support is stronger (eg Appendix 2, items 2, 6 and 9; Appendix 3, items 29 and 57), although the degree of support is debated (eg Appendix 2, items 10 and 17; Appendix 3, items 44 and 62), and those outside the cities are generally opposed (eg Appendix 2, items 3, 4 and 7; Appendix 3, items 39 and 54). It is clear from all the consultation, including our own brief exercise, that there are very strong views both for and against these proposals. **The House may wish to consider on the basis of these strong opinions the extent to which these unitary government proposals, which rely on collaborative working, are now feasible.**

Impact

22. Another element of the Committee’s normal scrutiny process would be inspection of the final Impact Assessment to see whether the benefits of the chosen option justify the costs. The format requires the Minister to sign a statement to that effect, which she has done. What is unusual in this case is that the chosen option, conversion of the two cities to unitary status, is anticipated to result in a net deficit of £1.6m to the period 2014-15, whereas the rejected option for the conversion of two counties to unitary status is projected to produce a surplus of £42.4m. In neither case are any “non-monetised benefits” offered in the Impact Assessment in mitigation.

⁹ Proposals for future unitary structures in Devon, Norfolk and Suffolk: period for representations: Summary of responses <http://www.communities.gov.uk/documents/localgovernment/pdf/1464374.pdf> published 10 February 2010

23. The analysis is given over six years, which is the timescale set by the affordability criterion with an indication of subsequent expectations. In response to our request for further explanation of the rationale for the Minister's statement DCLG relies on this prediction of net savings from the unitary cities of £6.5m per annum from 2015-16 onwards (Appendix 1, A5). However they do not mention that at the same point in time the unitary counties would be expected to be saving £33.4m per annum.
24. To justify the costs DCLG also refer to an exchange of correspondence between the Minister and the DCLG Permanent Secretary (reproduced at Appendix 1) in which the Permanent Secretary sought and obtained a Ministerial Direction to proceed with the Exeter and Norwich proposals (and for the proposed course of action in relation to Suffolk). This is a matter that is provided for in the Ministerial Code¹⁰ but the fact that a Permanent Secretary has seen the need to take so unusual a step can only contribute to the view that the decision to pursue these two Orders is outside the normal policy limits.
25. The Permanent Secretary, as Accounting Officer for his Department, is required to maintain certain standards which he indicates the proposed approach would make it difficult for him to meet. In his letter he says that the Secretary of State's preferred approach "would impact adversely on the financial position of the public sector as compared with the alternative courses of action open to you." He continues,

"I recognise that if your proposed approach of a unitary Norwich and Exeter achieves the economic gains you envisage, there may be off-setting benefits to the public purse from increased jobs of extra local and national tax revenues and reduced benefit payments. The evidence for such gains is mixed and representations that you have received provide no evidence to quantify such benefits. I also recognise that your proposed approach may open the way for improved public services through the Total Place approach, but this will be dependent on the collaboration of all the councils concerned and as yet there is no clear evidence of the costs and benefits that may arise." [*emphasis added*]

The same reactions occur to this Committee.

26. The Secretary of State's response repeats that as unitaries the two cities "will be a potent force for delivering positive economic outcomes" but he accepts that the Boundary Committee process did not produce evidence to quantify the anticipated benefits.
27. Both these proposals differ geographically from the seven previous orders, because they intend to convert only the central part of the defined area to unitary status, leaving it surrounded by a "doughnut" of the two-tier system. The geography is important to the Impact Assessment. We have sought clarification on how far the costings for each city unitary take into account the effects on the county of removing that section of its income and responsibilities. Once again the response from DCLG is opaque (Appendix 1, A6) "The proposal from Exeter included transition related county residual costs of £360k per annum from year 1. The revised business case from

¹⁰ Ministerial Code, July 2007, section 5.

Norwich also included county related transition costs totalling (pre vesting transition team costs) of just under £500k in the two lead up years”. We are not clear what these costs cover but they appear to be costs to the county of facilitating the transfer of staff and assets to the city unitary. This does not answer our question about the projected effects on the residual County authorities from having to run services with less income or loss of economies of scale: the letter from Devon County Council estimates this as a loss of £3.2m per annum (Appendix 2, item 5).

28. In the same way, given the strength of views expressed for maintaining the status quo we would have rather expected to see a cost/benefit projection for a “Do nothing” option that would enable us to put the claims of the alternative unitary proposals in context. This would also help the House better to weigh up the claims from a number of correspondents that conversion to a city unitary would cause significant cost and disruption (eg Appendix 2, items 4, 5 and 12; Appendix 3, items 18, 52 and 56).
29. In his response to the Permanent Secretary the Minister defends his decision by saying “I am concerned that your letter implies that the public interest lies with adopting the cheapest option... [we] have taken the decisions which we are clear are in the best interests of the people of those areas, and for which there is a genuine local appetite in those areas”. The statement is not entirely clear whether “the people of those areas” refers to the residents of the two cities, or the residents of the two counties. Referring to the lost economies of scale one correspondent comments the proposal “will leave Norfolk County Council with a depleted revenue base, but removes little from their obligations” (Appendix 3, item 66) another that the proposal places costs but no benefits on the population of the residual area (Appendix 3, item 53). **This is one of the key issues on which the House may wish to take a view: which course of action best represents “the public interest” and which section of the public’s interests should take priority.**

Timing

30. The Merits Committee also routinely gives consideration to a number of practical issues that may need to be resolved to enable a policy be implemented effectively. A key consideration is whether sufficient time has been allowed for transition. Those in favour of the proposals mention that sticking to the existing city boundaries would significantly simplify the conversion. In its *Lessons Learnt*¹¹ document DCLG indicates that based on the experience of the first conversions, 15 months is sufficiently short to be challenging but longer timetables can create difficulties. The responses do not in general indicate that the timescale of just over 12 months would be a significant factor.
31. A significant element of these Orders is a proposal to cancel the local council elections due in May. Paragraph 4.8 of the EM sets out the proposed arrangements. The grounds for cancelling them, to prevent a waste of resources by only electing the councillors for one year are not unusual. Laying them so close to the proposed election date however causes difficulties. The Electoral Commission has written (Appendix 4) to remind

¹¹ Establishing Unitary Councils in April 2009: Lessons Learnt, paragraph 15
<http://www.communities.gov.uk/documents/localgovernment/pdf/1419291.pdf>

us that the formal timetable for the local elections to be held on 6 May will begin by 29 March at the latest. The timing of these Orders therefore puts candidates in a difficult position and such uncertainty is generally undesirable. A number of letters from the public attribute a political motive to this (e.g. Appendix 2, items 5 and 15; Appendix 3, items 28 and 49). The Committee makes no comment on this, but notes with considerable surprise paragraphs 11-14 of the DCLG's *Lessons Learnt* document which sets out the Department's policy of managing the timing of elections to favour the implementation of the councils:

“In many scenarios, the ideal sequencing of events to ensure political legitimacy and ownership would be to have early elections (well in advance of the reorganisation date) ... In certain situations, though, particularly where there was already strong political and officer-level leadership which was committed to implementing the new council, it might be more appropriate to allow this leadership to see through implementation and deliver the vision they had promoted.

In any future reorganisation, therefore, it was widely agreed that CLG should continue the policy of timing elections according to local circumstances. Additional factors to be taken into account included the suggestion that early elections avoided the need for interim arrangements (such as co-opting outgoing councillors onto licensing and development control committees) and provided the ability to take longer-term decisions However, this needed to be balanced with the possibility that a council could be elected that opposed reorganisation.” [*emphasis added*]

Conclusion

32. **It is not this Committee's role to reach a definitive view on whether unitary status is right in these circumstances, but rather to draw the special attention of the House to issues which it may wish to take into account in reaching its decision.** In addition to the issues set out above which are common to both Orders there are matters which are specific to Exeter/Devon, and to Norwich/Norfolk, which are illustrated by the correspondence in Appendices 2 and 3. From this we note that the two cases raise different issues and **remind the House that the instruments are separate and the House is not constrained to reach the same view on both.**
33. In the Impact Assessment it is stated that “the policy objectives of a move to unitary local government in Exeter and Norwich are to overcome the weaknesses found in the existing council structures based on county and district tiers, and establish new and innovative local governance combining strong strategic councils for the cities and effective arrangements for empowering communities”. The Committee notes from the range of representations that there are genuine concerns that the differing needs of city and rural dwellers are not being adequately met by the current arrangements. This may indicate a need for change, but not necessarily for any one particular course of action. **The House may wish to consider whether or not sufficient evidence that the course proposed in the Orders will solve the problems identified without creating unacceptable consequences elsewhere, has been provided.**

34. The House may also wish to give serious consideration to a number of questions about the decision making process:
- i. The primary legislative framework appears to be very open. It requires the Secretary of State to consult various bodies but he is not bound by the outcome. After deliberation, a procedure involving the “five criteria” was set out for the conduct of this round of applications in the Invitations to Councils in England and subsequent DCLG documents. **Does the House believe it is right to depart from that published procedure during the same tranche of applications? If so, is it appropriate to do so without further consultation?**
 - ii. The Minister has cited two “compelling reasons” for departing from the presumption that any application that does not meet the five criteria will not be implemented: **does the House find these reasons persuasive?**
 - iii. The Orders have been laid very close to the date of the council elections: **will the timing affect local democracy in those areas?**
 - iv. The parts of the Explanatory Memorandum to which this Committee routinely looks for evidence to support a policy proposal, particularly the Impact Assessment and the outcome of consultation, do not make a clear, evidence-backed case. **Is there sufficient evidence published elsewhere to reassure the House?**
35. We have offered the Department an opportunity to fill the gaps in our understanding with stronger evidence or more detailed explanation, but DCLG has failed to provide the detailed information we sought, in some cases simply reiterating the formula of words in the Written Statement. **The Committee therefore feels it has insufficient information on which to be able to determine whether these Orders are likely to implement their policy objective and draws them to the special attention of the House on the grounds that they give rise to issues of public policy likely to be of interest to the House and that they may imperfectly achieve their policy objective.**

OTHER INSTRUMENTS OF INTEREST

Draft Terrorism Act 2000 (Proscribed Organisations) (Amendment) Order 2010

36. This affirmative SI amends the Terrorism Act 2000 by adding Al Shabaab (AS) to the list of proscribed organisations in Schedule 2. The Explanatory Memorandum (paragraph 2.2) says that AS has waged a violent campaign against the Somali Transition Federal Government and African Union peacekeeping troops in Somalia since the beginning of 2007, and that they have recently announced their intention to combine the jihad in the Horn of Africa with the global jihad led by Al-Qaida. AS will be proscribed in the UK as soon as the Order comes into force.

British Nationality (Rwanda) Order 2010 (SI 2010/246)

37. This Order amends the British Nationality Act 1981 so that Rwanda is added to Schedule 3 to that Act, which is a list of “Countries whose citizens

are Commonwealth citizens”. This SI follows the decision of the Commonwealth Heads of Government Meeting (CHOGM) to allow Rwanda’s entry to the Commonwealth, which happened on 29 November 2009. The effect of the SI is that Rwandan citizens in the UK will be eligible to hold certain posts, such as: judge; magistrate; minister; police constable; member of the armed forces; or civil servant. If qualified, Rwandan citizens in the UK will also have the right to vote in Parliamentary, local and European elections, to stand for election to Parliament and sit in the House of Lords as a peer or bishop. As Commonwealth citizens they will also be able to enter the United Kingdom under the Immigration Rules on an ancestry visa or as a working holidaymaker. UKBA have provided further information on the development of the UK Government’s position on Rwanda’s application to join the Commonwealth (see Appendix 5). As this SI brings in significant changes, the House may wish to be mindful of the way that position was developed when considering the merits of the SI.

Local Authority (Duty to Secure Early Years Provision Free of Charge) (Amendment) Regulations 2010 (SI 2010/301)

38. The Childcare Act 2006 (“the 2006 Act”) requires English local authorities to secure that early years provision of a prescribed description is available free of charge for prescribed periods for children of a prescribed age below compulsory school age. Those matters are prescribed in the main Regulations: this negative SI amends the main Regulations (SI 2008/1724) to increase the prescribed periods. The main Regulations currently require local authorities to deliver the free entitlement as 12 ½ hours per week for 38 weeks. This SI will increase the requirement to 570 hours in each year (the equivalent of 15 hours per week over 38 weeks) and prescribes that this must continue to be available over a minimum of 38 weeks in each year. One effect of the change is that local authorities will be able to make the hours available over more than 38 weeks of the year. The policy aim of the change is to give parents more choice to access the free entitlement. The House may wish to note the costs associated with the change: £590 million has been made available to local authorities over 2008-11 to fund the additional provision.

INSTRUMENTS NOT DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

The Committee has considered the instruments set out below and has determined that the special attention of the House need not be drawn to them.

Draft Instruments requiring affirmative approval

Draft Commons Council (Standard Constitution) (England) Regulations 2010

Draft Terrorism Act 2000 (Proscribed Organisations) (Amendment) Order 2010

Instruments subject to annulment

SI 2010/213 Legal Services Act 2007 (Levy) Rules 2010

- SI 2010/239 Parliamentary Commissioner Order 2010
- SI 2010/242 National Insurance Contribution Credits (Transfer of Functions) (Northern Ireland) Order 2010
- SI 2010/246 British Nationality (Rwanda) Order 2010
- SI 2010/283 Personal Injuries (Civilians) Scheme (Amendment) Order 2010
- SI 2010/295 Food for Particular Nutritional Uses (Miscellaneous Amendments) (England) Regulations 2010
- SI 2010/298 Marine and Coastal Access Act 2009 (Commencement No. 2 and Transitional Provisions) Order 2010
- SI 2010/301 Local Authority (Duty to Secure Early Years Provision Free of Charge) (Amendment) Regulations 2010
- SI 2010/304 Deposits in the Sea (Exemptions) (Amendment) (England and Wales) Order 2010
- SI 2010/312 Road Vehicles (Construction and Use) (Amendment) Regulations 2010
- SI 2010/313 Motor Vehicles (Designation of Approval Marks) (Amendment) Regulations 2010
- SI 2010/319 Port Security (Avonmouth Dock and Royal Portbury Dock and Port of Bristol Security Authority) Designation Order 2010
- SI 2010/323 Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Biological Agents) Regulations 2010
- SI 2010/330 Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Chemical Agents) Regulations 2010
- SI 2010/332 Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Work at Height) Regulations 2010
- SI 2010/324 Goods Infringing Intellectual Property Rights (Customs) (Amendment) Regulations 2010
- SI 2010/364 Export Control (Guinea) Order 2010

**APPENDIX 1: DRAFT EXETER AND DEVON (STRUCTURAL CHANGES)
ORDER 2010 AND DRAFT NORWICH AND NORFOLK (STRUCTURAL
CHANGES) ORDER 2010: GOVERNMENT RESPONSE**

Information from the Department for Communities and Local Government (DCLG)

Introduction

The Secretary of State for Communities and Local Government laid two draft orders before Parliament on 10 February which, if approved by both Houses, he intends to make to give effect to the decisions he and the Minister for Local Government made to implement a unitary council for Exeter and a unitary council for Norwich. The draft orders in question are: The Exeter and Devon (Structural Changes) Order 2010 and The Norwich and Norfolk (Structural Changes) Order 2010.

On the same day, the Parliamentary Under-Secretary of State for the Department for Communities and Local Government (“the Department”) laid a written statement (WS 58) to inform the House of the decisions that the Secretary of State and the Minister for Local Government had made on the unitary proposals before them in relation to Devon, Norfolk and Suffolk, and explaining their approach.

In short, that approach was that Ministers, as they have acknowledged, departed from the published criteria in seeking the best practical way forward for local people in Exeter and Norwich. The Secretary of State’s considered view was that these decisions and the reasons for them should now properly be considered by Parliament, and hence it was right to proceed to lay before Parliament the draft Orders which are now subject to the Merits Committee’s (“the Committee”) examination.

The Committee has raised queries on 10 issues relating to these draft orders with the Department whose response to these issues is set out below.

Q1. *Government has set 5 criteria – Written Statement says neither city meets all 5 but the Government are proposing to make them unitary authorities anyway for “compelling reasons” (economic and Total Place)*

Where is the assessment methodology for the 5 criteria set out?

What did the 2006 invitation to applicants say about how applications would be assessed against the 5 criteria?

A1. The criteria have no statutory basis for the purpose of the Secretary of State’s decisions. The decisions are taken under section 7 of the Local Government and Public Involvement in Health Act 2007 (“the 2007 Act”), which is wholly silent as to the basis of any decisions whether to implement a unitary proposal.

The origin of the criteria is in the *Invitation to Councils in England*¹² which the Department published in October 2006. This document invited councils to put forward unitary proposals which conformed with the criteria. The criteria specified outcomes which should be delivered if the proposed change to unitary structures were to be made and the unitary proposal were to be implemented. Accordingly, as explained and accepted by the court in judicial review proceedings determined by the Court of Appeal on 4 March 2008 in the case brought by Shrewsbury & Atcham Borough Council and Congleton Borough Council against the Secretary of State ([2008] EWCA Civ 148), an assessment against the

¹² See <http://www.communities.gov.uk/publications/localgovernment/invitationall>

criteria involved a prospective judgement as to the likelihood of the outcomes being delivered if the change were to be made and the unitary proposal were to be implemented.

With the enactment of the 2007 Act, the criteria by virtue of section 21 of the Act, became guidance for the purposes of section 3 of the Act as to what unitary proposals should seek to achieve and to which councils making the proposals must have regard.

The *Invitation to Councils* also set out the procedure to be followed once councils had made their unitary proposals. This involved, after an initial sift of all the proposals that had been submitted, a consultation on those which at that stage were judged to meet the criteria. In the event, the consultation was held between March – June 2006, and included consulting on proposals for a unitary Exeter and a unitary Norwich. The consultation document¹³ stated “*proposals will proceed to implementation if, and only if, when we take our final decisions, we remain satisfied that they meet the criteria.*” By virtue of section 21 of the 2007 Act, this consultation is a consultation for the purposes of section 7(3) of that Act.

In the case of the proposals for a unitary Exeter and a unitary Norwich, the recent period for representations from 7 December 2009 – 19 January 2010 provided a further period of consultation for the purposes of section 7(3). On 7 December 2009, the Department wrote to all affected councils setting out the approach the Secretary of State intended to adopt for taking statutory decisions in relation to proposals received by him for unitary local government in Devon, Norfolk and Suffolk. That letter, and an earlier letter sent to affected councils on 29 June 2009, made clear that an assessment against the criteria, whilst central to decision-taking under section 7 of the 2007 Act, would not be the sole determinant as to whether a proposal was implemented. The letter explained that, in deciding “*which if any of these unitary proposals [i.e. proposals assessed as meeting the criteria] should be implemented, he [the Secretary of State] will consider the merits of each proposal as a whole...*” Neither the letter of 7 December 2009 nor the letter of 29 June 2009 expressly stated that a proposal judged not to meet the criteria would not be implemented.

If these criteria were applied strictly to previous applicants, why are these two cities now being treated differently?

It is not the case that the approach Ministers are now taking to their decisions under section 7 of the 2007 Act is different from the approach taken previously when section 7 decisions were taken in December 2007. The 2007 Act gained Royal Assent on 30 October 2007 and the provisions relating to local government restructuring came into force on 1 November 2007. That opened the way for decisions to be taken on the unitary proposals that had been submitted pursuant to the 2006 *Invitation to Councils*. By virtue of section 21 of the 2007 Act, pre commencement proposals are treated as proposals for the purposes of section 2 of that Act, and consultation carried out in relation to such proposals is treated as carried out under the Act notwithstanding that this was before enactment.

When approaching her section 7 decisions in December 2007, the then Secretary of State recognised that it was in principle open to her to conclude, on the basis of the information available to her, that the criteria were not met but that there was nonetheless a good reason to implement the proposal (or conversely that the criteria were met but that the proposal should not be implemented). In the event she decided that, having regard to all the circumstances then prevailing, it was appropriate at that time to implement proposals that met the criteria and not to implement proposals that did not meet the criteria. This conclusion was made clear in the Minister for Local Government’s statement to the

¹³ See <http://www.communities.gov.uk/publications/localgovernment/proposalsfuture>

House of Commons on 5 December 2007, where he expressly explained that the “*basis of these decisions is the Secretary of State’s assessment of the proposals against the five criteria set out in the original invitation, and which now have the status under the 2007 Act of guidance to which councils should have had regard when making their proposals.*”

The Written Ministerial Statement laid on 10 February made clear that the assessment against the criteria remained central to the section 7 decisions. The statement also explained that, on this occasion, in contrast to the previous decisions under section 7, Ministers judged in the case of Exeter and Norwich that there were ‘*compelling reasons to depart from the presumption that unitary proposals which do not meet all five criteria are not to be implemented*’. The reasons are set out below, reasons which would not have arisen in 2007.

In both cases these reasons, as set out in the Parliamentary Statement, are twofold:-

“First, the Government’s priorities today are above all for jobs and economic growth. Local government has an essential role to play in delivering these economic priorities, and this role is of a significance that could not be contemplated in 2006 when the criteria were developed. We believe, as has been made clear to us by the representations we have received, that a unitary Exeter and a unitary Norwich would each be a far more potent force for delivering positive economic outcomes both for the city and more widely than the status quo two-tier local government.

Secondly, with today’s approach to developing public service delivery, as envisaged by our command paper - “Putting the Frontline First” - announced by my Rt. Hon friend the Chief Secretary to the Treasury on 7 December 2009 (Hansard Column 1WS), including the Total Place approach, a unitary Exeter and a unitary Norwich could open the way for improvements to the quality of public services. Through innovative shared services and partnership arrangements the public services for the cities will be able to be tailored to the needs of the urban area whilst still being able to achieve the economies of scale that are possible under the countywide delivery of such services as adult social care and children’s services.”

Why did the same “compelling reasons” for becoming a unitary authority not apply to Suffolk’s application?

For the reasons set out in the written statement, the Secretary of State has not yet taken any section 7 decisions in relation to the Suffolk unitary proposals.

How will future applicants be assessed?

The Government has said it has no plans for any further programme of Invitations to councils to submit unitary proposals under the 2007 Act. However, it does recognise there may be future cases where circumstances warrant an invitation targeted to specific councils, and the legislation allows for this. In any future invitation, it would be open to the Secretary of State to specify the same, different or no criteria at all to which councils must have regard when submitting proposals.

Q2. Separately for Norwich and Exeter please explain with specific details and figures:

Which criteria they failed on and why?

Did they fail by the same degree in 2009 as in 2007? Had the position remained static or had the potential deficit increased or decreased, if so by how much?

A2. In relation to Exeter, in December 2007 the Secretary of State considered that there were still a number of risks to the financial case set out in the proposal. In particular, allowing a reasonable estimate for costs, the pay back period for the proposal might be over the 5 years specified by the affordability criterion. Overall, therefore, there was not a

reasonable likelihood of the proposal achieving the outcomes specified by the affordability criterion.

In February 2010 the Minister for Local Government considered the proposal afresh against the criteria and her assessment was the same as the then Secretary of State's in December 2007. For the reasons given in the Parliamentary Statement the Minister for Local Government concluded that in all the circumstances her assessment in relation to the affordability criterion should not be an impediment to implementing the proposal. This was not least because the benefits for the local economy were judged to outweigh the risks on affordability.

In relation to Norwich, in 2007, the Secretary of State considered that:-

- Although the service priorities of any new unitary authority, together with proposals for the integration of key service areas, might potentially deliver public services focussed on the urban needs of Norwich's citizens, value for money service delivery might potentially be compromised by the city's small population and the difficulty of managing cross-border issues. There was therefore not a reasonable likelihood of the proposal achieving the outcomes specified by this criterion; and
- There were 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 Norwich. There were also concerns about the reliability of the financial data submitted in the proposal. Accordingly, there was not a reasonable likelihood of the proposal achieving the outcomes specified by this criterion.

In February 2010 the Secretary of State considered the proposal afresh against the criteria and his assessment was the same as the then Secretary of State's in 2007. For the reasons given in the Parliamentary Statement, the Secretary of State concluded that his assessment in relation to the affordability and value for money services criteria should not be an impediment to implementing the proposal. This was not least because when the Total Place approach is factored into consideration of service delivery, the outcomes for services both in Norwich and Norfolk generally could be as good, if not better, than the outcomes envisaged by the value for money services criterion, and because the benefits for the local economy were judged to outweigh the risks on affordability.

Please explain how unitary status in each area is anticipated to stimulate the local economy to the degree that it offsets the financial considerations

The evidence and representations which support the Secretary of State and Minister's statement that a unitary Exeter and Norwich would each be "*a far more potent force for delivering positive economic outcomes*" are as follows:-

- A defining feature of the Exeter bid was the strong, longstanding, cross-party support for an Exeter unitary, providing good strategic leadership. In oral representations it was said that Exeter City Council was the "driving force" in the area, providing "coherent strategic leadership" on urban needs, growth and development.
- Representations in favour of an Exeter Unitary also said that the two-tier system did not allow urban residents' views and political preferences to be heard at county level. This was particularly a problem in planning where it was perceived that rural residents were able to make decisions about issues affecting Exeter (e.g. blocking a new park and ride scheme, and plans for a waste incinerator). However the problem was also felt in education where the county had blocked the creation of a university trust to run Exeter's schools which had been locally popular.

- Similarly, representations in favour of a Norwich Unitary said that the city's urban needs were very different from those of the surrounding rural county, and only a unitary City Council would ensure these specific needs were recognised and addressed.
- Representations also said that the County Council, being predominantly rural, had never prioritised what was important for Norwich's growth e.g. jobs, the green and knowledge economy, business growth. A Unitary Norwich would mean the priorities of Norwich's citizens would be better represented.
- Cities are key drivers of growth. Working with the grain of supply, housing and labour markets the Department has encouraged cities to collaborate with public and private sector partners, for example through Multi Area Agreements, to mitigate the most scarring effects of the recession and to accelerate the return to prosperity. These new unitary authorities could be expected to take a proactive approach to economic development.
- Both cities have potential to deliver more in terms of economic development and growth. A unitary Exeter and Norwich would give each city the strong accountable local self-governance, to increase innovation capacity and joined-up activity, and incentivise them to be more self-reliant and disciplined in attracting and managing resources.
- Norwich's potential for growth is identified by the East of England Development Agency who named it as one of seven engines of growth with 40% of the county's jobs being currently located in the greater Norwich area; there is potential for further growth in the green knowledge-based economy through the links with the university. The population of the City Council area was now 135,000, which was greater than 10 other high-performing cities, with the potential for growth to 160,000.

Creating unitary councils for Exeter and Norwich is estimated over the period to 2014/15 to involve net costs of around £400k, made up of transitional costs of around £39.8m and gross savings of around £39.4m; annual on-going savings thereafter are estimated at approximately £6.5m.

However, Ministers also expect to see off-setting benefits to the public purse from increased jobs, including extra local and national tax revenues and reduced benefit payments. While representations received provide no evidence to quantify such benefits, it would not be right to set these potential benefits wholly to one side.

Please explain the Total Place initiative and how it is anticipated that it will overcome the cost disincentive in each area

The Total Place initiative was launched in April 2009 as part of the Government's Operational Efficiency Programme, which formed part of *Budget 2009: Building Britain's Future*¹⁴. Total Place takes a 'whole area' approach to delivering public services in a geographical location, looking at how to deliver better services at less cost, through effective collaboration between local organisations and leadership. The Total Place approach, therefore, is one which recognises that two or more service providers should be able to collaborate through partnership arrangements enabling them together to provide a service that can realise benefits such as economies of scale that would be available if there was a single service provider, whilst at the same time reflecting the particular priorities of the individual service providers.

¹⁴ HC 407 (2009)

Thirteen pilots across each region in England are helping to demonstrate how providers that work together can improve efficiency and put the needs of users at the heart of the way services are designed. Total Place will report alongside Budget 2010. The Government will be ready to respond to the findings of the pilots at two levels: first, by letting local areas set priorities, and further streamlining the national-local performance framework; second, by enabling local areas to guide the use of resources.

With this Total Place approach, Ministers expect a unitary Exeter and a unitary Norwich could open the way for improvements to the quality of public services. Through innovative shared services and partnership arrangements the public services for the cities will be able to be tailored to the needs of the urban area while still being able to achieve the economies of scale that are possible under the countywide delivery of such services as adult social care and children's services. This is the potential strength of a structure comprising unitary local government for urban centres and two-tier governance for the more rural areas.

As the Secretary of State will shortly be setting out in letters to the principal councils in Devon and Norfolk (copies of which the Department will forward to the Committee once they are sent), he will be looking to the local government sector as a whole to support the local authorities in both areas as they take up the opportunities and challenges they now face, and Government will provide all the support it can over the coming weeks and months. This will include working with those councils to identify barriers to greater shared and joint working, building in particular on the findings of the 13 Total Place pilots and the opportunities for efficiency savings identified by the *Putting the Frontline First* Task Force¹⁵ when its report issues in a few weeks time.

Q3. *Why were the views of the Boundary Committee discounted?*

A3. The views of the Boundary Committee were not discounted. Rather, in making their decisions on each of the unitary proposals before them, Ministers had regard to the Boundary Committee's advice, all the representations received, and all other relevant information. In particular, after taking into account the representations received from local authorities in Devon and Norfolk which made clear that the unitary county option did not command the support of any of the principal councils, Ministers' judgment was that there was not a reasonable likelihood, if these proposals were implemented, of their delivering the outcomes specified by the broad cross-section of support criterion. Similarly, the Minister for Local Government also judged that, if a unitary council for Devon were implemented, there was also not a reasonable likelihood of it delivering the outcomes specified by the neighbourhood engagement criterion.

Q4. *Your EM mentions a number of judicial reviews have taken place during the course of the application process: for each please describe briefly what the grounds were and what the outcome was.*

A4. There have been a number of judicial reviews brought against the Boundary Committee during the process by which it formulated and made its advice to the Secretary of State. In each of these proceedings the Boundary Committee was the defendant; the Secretary of State joined the proceedings as an interested party. These are summarised below.

¹⁵ Launched following the Command Paper *Putting the Frontline First: Smarter Government* (Cm 7753), see <http://www.communities.gov.uk/news/corporate/1423047>

1. Breckland and other Norfolk district councils first judicial review (judgment on 28 November 2008)

Grounds

- The Boundary Committee (BC) had failed to consider whether its draft proposal met the affordability criterion;
- The BC had failed to comply with its statutory duty to consult as it had not provided sufficient information on costs and affordability, and as this information had not been provided there was insufficient time for consultees to consider the proposals and respond; and
- The BC had failed to address its mind to whether it should provide advice and it had failed to have regard to the benefits of retaining two tier local government (the “status quo”).

Outcome

The judge dismissed the case against the BC. The key points of his findings were:

- There was no obligation on the BC to conduct a specific comparison with the status quo;
- Although the BC was required to consult on the affordability of proposals, there was no obligation on the BC to assess the affordability of proposals before publishing its draft proposals in July;
- Sufficient information had been provided by the BC to enable interested persons to make meaningful representations in response to their draft proposal;
- The judge made clear that the timing on consultation was critical and suggested that a longer period for representations about affordability before the BC provided final advice would be appropriate; and
- The judge felt that it was unlikely that the BC could consider representations on affordability in sufficient detail ahead of the 31 December 2008 deadline and therefore there should be a short extension to the deadline (the deadline was subsequently extended to the 13 February 2009).

2. East Devon District Council judicial review (judgment on 8 January 2009)

Grounds

- The BC had failed to consider whether its draft proposal met the affordability criterion;
- The BC had failed to comply with its statutory duty to consult as it had not provided sufficient information on costs and affordability, and as this information had not been provided there was insufficient time for consultees to consider the proposals and respond;
- The BC had failed to address its mind to whether it should provide advice and had failed to have regard to the benefits of retaining two tier local government (the “status quo”);
- The BC had failed to have regard to the benefits of recommending to the Secretary of State that the original Exeter bid should be implemented;
- The Secretary of State’s view that the BC had powers to consult on more than one alternative proposals was correct and therefore the BC had misdirected itself; and
- The BC had not considered aggregation - properly construed - in relation to the unitary patterns which involved more than one unitary authority for a county area.

Outcome

The judge found in favour of the BC. The key points of his findings were:

- The BC had met its statutory obligation to consult on affordability;
- The BC had gone as far as was necessary in terms of considering the original Exeter proposal;
- The judge did not change his view on consultation from the Breckland case but concluded that the BC had misdirected itself in believing it only had the power to consult on one draft alternative proposal. However, as the BC had not yet provided advice to the SoS, the claim was premature;
- The BC should consider with care whether it would be right to make further alternative proposals for Devon. If it were to decide that that course was appropriate it would need to consult on such further proposals. However, that consultation would be conditioned by what had already occurred and it might decide that only a more limited further consultation was necessary; and
- If the BC decided to advance an alternative proposal for Devon which consisted of a proposal involving the creation of more than one unitary authority, the BC's independent financial consultants would need to reevaluate the notion of aggregation in light of the new guidance (provided by the Secretary of State on 5 December 2008). If that produced a change in analysis that would require a further period of consultation.

3. Joint appeal by Breckland and other Norfolk district councils and East Devon District Council (judgment on 25 March 2009)

Outcome

In all but one area the Court upheld the earlier judgments that:

- the 2007 Act obliged the BC to carry out a process of public consultation;
- consultation could be in stages;
- the BC had power to consult upon and make more than one alternative proposal to the Secretary of State;
- the BC was not required to conduct a comparative exercise between the status quo and any proposals for unitary local government; and
- the BC had dealt properly with the original proposals (from Exeter and Norwich).

However, the Appeal Court did not support the High Courts finding that the BC had met its duty to afford those interested in the draft alternative proposals sufficient information to make representations on affordability. Despite finding that the BC had not provided sufficient information the Court noted that the timetable had since been extended and things had moved on.

The Court was not persuaded by the submissions of the appellants that the process should be quashed (i.e. the BC would be required to start again). In its view any failings in the process were capable of being repaired prior to the BC providing advice to the Secretary of State. The two main matters that needed to be addressed by the BC were:

- consideration of further possible alternative proposals, with proper consultation if any of them were to be recommended as an alternative proposal; and
- adequate time for local authorities and the public to make representations on the affordability of the existing alternative proposals after appropriate publication of financial information in a sufficiently digestible form.

4. *Forest Heath and other Suffolk district councils judicial review (judgment on 10 July 2009)*

Grounds

- The BC had failed to act fairly to the claimants who had put forward their own proposal for a three unitary authority solution for Suffolk;
- The BC had failed to consult adequately; and
- The BC's approach to the 'status quo', as set out in its March further draft proposals, predated and was inconsistent with the approach set out by the Court of Appeal on 25 March 2009.

Outcome

The High Court found against the BC. In essence, the Court found that the BC's publication of its draft proposals for Suffolk of 19 March 2009 had been unfair, as it had not at that stage properly dealt with the proposal put forward by the Claimants for a three unitary authority solution for Suffolk. The court quashed the BC's publication on 19 March 2009 of draft alternative proposals for consultation.

5. *Boundary Committee appeal against Forest Heath and other Suffolk district councils (judgment on 2 December 2009)*

Outcome

The BC's appeal was successful, setting aside the High Court's judgment and quashing order. The key points of the findings were:

- The process undertaken by the BC with Suffolk local authorities in March, April and early May 2008 undoubtedly constituted "dialogue" with the local authorities. As there was adequate "dialogue", there was no obligation derived from fairness to explain to local authorities in advance of the publication of the draft alternative proposals the internal thinking which had led to those draft alternative proposals being made;
- The statutory structure did not extend back to the formulation stage (i.e. when the BC was formulating its draft unitary proposals for consultation) and did not require the BC to consult at that stage about proposals which they were not thinking of taking forward;
- The BC were not obliged to consider and decide whether every proposal advanced met each or all of the five criteria. The BC had to decide whether to give advice, whether to publish one or more alternative proposals, and, if so, which alternative proposal or proposals to publish; and
- At the consultation stage, the BC's obligation was to let interested parties know in clear terms what the consultation proposal or proposals were and exactly why they were under positive consideration, telling them enough to enable them to make an intelligent response.

Forest Heath sought permission to appeal this judgment to the Supreme Court, permission was refused on 28 January 2010

6. *Kings Lynn and other Norfolk district councils second judicial review*

This application was withdrawn by the claimants on 11 February 2010.

The Committee will wish to note that following announcement of the Secretary of State's decisions on 10 February 2010, a judicial review challenge has been launched by Devon and Norfolk county councils seeking to quash those decisions.

Q5. *The Impact Assessment indicates that the net benefit for conversion of the cities to unitary status would be a deficit of £1.6m, the net benefit for the conversion of the entire counties to unitary status would be a surplus of £42.4m and yet the Minister recommends the first option. Given she has signed to say that the benefits of the first option (cities) justify the costs, please explain the rationale for this statement.*

A5. Whilst the Impact Assessment for the two City Unitary proposals together suggested a potential deficit over the period to 2014-15 it also suggests that the proposals have the capacity to deliver annual on-going savings of around £6.5m from 2015-16 onwards (net present value £5.3m in 2015-16).

The Secretary of State set out his and the Minister for Local Government's reasons for their decisions in the Parliamentary Statement and in his direction letter to the Department's Accounting Officer (attached at Annex A).

Q6. *The Impact Assessment gives the impression that the calculation for the two options were examined in isolation –*

Does the option 1 assessment take into account any administrative costs, loss of income or loss of economies of scale to the Counties from the separation of the Cities into a separate unitary authority? Please explain giving details of the costs involved.

Does the option 2 assessment take into account any impact on the Cities from the County as a whole being converted to a unitary authority? Please explain giving details of the costs involved.

A6. The proposal from Exeter included transition related county residual costs of £360k per annum from year 1 (rounded to £0.4m pa in the Impact Assessment). The revised business case from Norwich also included county related transition costs totalling (pre vesting transition team costs) of just under £500k in the two lead up years. The option 2 assessments were derived from the information that was provided to the Boundary Committee and upon which they made their assessments of the capacity of the proposals to meet the affordability criterion. Therefore the Impact Assessment in relation to option 2 makes no separate assessment of the financial impact on the cities.

Q7. *Consultation analysis: in each case there was a clear majority for the status quo – what are the grounds for overruling this view, particularly for Norwich where only 3% supported making the city a unitary authority. How is this reconciled with the criterion which requires the support of a broad cross section of partners and stakeholders?*

A7. The purpose of the broad cross section of support criterion is not to be able to demonstrate a majority of a particular group, including local citizens, who are in favour of a unitary proposal. Rather, it is to allow an assessment to be made of whether support among a range of sectors of the community, including the public, community groups and public sector service providers, is strong and broad enough that if the Secretary of State were to implement any unitary proposal it would have a good chance of success. In particular, Ministers are clear that no group or groups should have a veto over any proposal.

This has been clear from the outset of the process and was the basis on which the proposals for the nine new unitary councils created on 1 April 2009 were successfully implemented. Specifically, the Invitation to Councils in 2006 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.”

Therefore, although Ministers had regard to the extent to which the representations received indicated that each proposal, including the proposals for a unitary Exeter and Norwich, was supported or not in terms of overall numbers, they also considered how each proposal was supported by local principal councils, democratically elected to represent local people, a range of stakeholders and the evidence that was included or referred to in the representations.

They therefore concluded that they shared the views previously reached that the proposals for a unitary Exeter and a unitary Norwich met the broad cross section of support criterion. Furthermore, as explained in answer to earlier questions, and set out in the Secretary of State’s letter of direction to the Permanent Secretary (at annex A), Ministers considered proposals on their merits giving careful consideration to the circumstances in which they were “*compelling reasons to depart from the presumption that proposals that meet the criteria are implemented, and those that do not are not implemented.*”

Q8. At what stage did the Secretary of State’s “compelling reasons” enter into the assessment?

For either Exeter or Norwich did any of the consultation exercises specifically invite comment on the Secretary of State’s view about the probable benefits of the economic outturn or the Total Place approach?

A8. As explained in the answer to question 1, the Secretary of State’s approach to taking decisions under section 7 of the 2007 Act, both earlier in December 2007 and now, involved consideration as to whether if the criteria were not met there was nonetheless a good reason to implement the proposal, or conversely if the criteria were met there was a good reason that the proposal should not be implemented. This consideration, as the consideration of all other aspects of section 7 decision taking, involved having regard to all the representations received.

From 7 December 2009 until 19 January 2010 there was a period for representations to be made to the Secretary of State about the unitary proposals before him. Representations were made to him setting out how a unitary Exeter and unitary Norwich would each be a far more potent force for delivering positive economic outcomes. These representations are summarised in the answer to question 2.

Representations were also made to the Secretary of State about the importance and relevance of Total Place to his decisions. For example, at a meeting with Departmental officials on 22 January 2009 about possible implementation arrangements the Chief Executive and a senior officer from Norfolk County Council, whilst not specifically referencing Total Place, spoke about Norfolk’s LEAPP Programme (Lead, Engage, Aspire, Perform in Partnership) which had brought together 200 leaders from across the public sector in Norfolk to consider place-based approaches to the issues facing the county – exactly the kind of initiative that Total Place encourages. Likewise, when Devon County Council and rural district councils in Devon made their oral representations to the Local Government Minister on 14 January 2010, whilst not specifically referencing Total Place, there was an awareness of Total Place issues as they raised the issue of better joint working and an “Integrated Devon”. The representations noted that a number of joint arrangements were in place – e.g. a joint LSP between East and North Devon, joint Chief Executive between Torridge and Teignbridge; joint service provision between West Devon and South Hams; a joint growth point between Exeter and East Devon. The thrust of these representations was that these joint arrangements would achieve the same or better outcomes than a unitary council and hence the change to a unitary council was not necessary or appropriate.

After the period for representations closed on 19 January the Secretary of State and the Minister for Local Government had regard to all relevant matters, including the representations they had received. They proceeded to take their decisions, acknowledging the centrality of the five criteria to their decision taking. They also considered, as they had done in December 2007, whether there were good reasons that proposals that did not meet the criteria should nonetheless be implemented. They concluded in this case that there were such reasons, which they saw as compelling, that the proposals for a unitary Exeter and Norwich which did not meet the criteria should be implemented.

Q9. *Press reports indicate that the Permanent Secretary asked for an instruction from the Minister to proceed given the option chosen did not meet the best value for money criteria. Could the Department please explain the position to the Committee and the reason for proceeding in the face of the Permanent Secretary's concerns.*

A9. The background and processes relating to directions are set out in chapter five of the *Ministerial Code* and chapter three of HM Treasury's *Managing Public Money*. In summary, a ministerial direction is a formal instruction from a Secretary of State to an Accounting Officer to proceed with a policy. An Accounting Officer should seek a direction if he or she judges that a proposed policy is inconsistent with their responsibilities for the efficient, economic and effective use of the resources within the ambit of their Department, and for value for money, judged for the public sector as a whole, of the Department's policies and their implementation. The grounds on which an Accounting Officer should seek a direction are:

- Irregularity (e.g. if a proposal is outside the legal powers, Parliamentary consents or Treasury delegations);
- Impropriety (e.g. if a proposal would breach Parliamentary procedures);
- Poor value for money (e.g. if an alternative proposal, or doing nothing, would deliver better value – i.e. a cheaper or higher quality outcome);
- Feasibility (e.g. if a proposal may not be capable of being implemented).

These responsibilities can only be overridden by a minister. In giving a direction the minister may take account of wider factors than those for which the Accounting Officer has specific responsibility. These might include, for example, the wider public interest, the impact on confidence, or – as in this case – the potential effect on the wider economy. Directions are a recognised part of the policy-making process and, while not frequent, they are not uncommon. As stated in *Managing Public Money*, once a direction is made, the Accounting Officer and his or her officials are obliged to implement it without further ado.

On 8 February 2010, the Accounting Officer wrote to the Secretary of State (attached at annex B) setting out that he had “*concerns, principally about... value for money and feasibility*”, if Ministers decided to proceed as they were then proposing – namely, subject to Parliamentary approval, to implement a unitary council for Exeter and a unitary council for Norwich, to take no action on proposals for a unitary Devon and Norfolk, and no action in relation to proposals for Suffolk (though in the event Ministers took no statutory decisions on Suffolk) – and therefore seeking a written instruction if Ministers wished to proceed in this way. Once Ministers had taken their statutory decisions, the Secretary of State wrote to the Accounting Officer on 10 February (attached at annex A) explaining the approach they had taken to those decisions and instructing him to implement them.

As set out above and in the Secretary of State's direction letter, Ministers considered each of the unitary proposals before them on its merits. They did not accept any implication that the public interest lies with adopting the cheapest option across all three counties.

They adopted the approach whereby they carefully assessed each proposal against the five criteria, they gave careful consideration to the circumstances in which there were compelling reasons to depart from the presumption that proposals that meet the criteria are implemented, and those that do not are not implemented. They are clear that the decisions that they have taken in relation to unitary proposals for Devon and Norfolk, are in the best interest of the people of those areas, and for which there is a genuine local appetite in those areas.

Ministers acknowledge that in seeking the best practical way forward for local people they have departed from the published criteria. They made clear that this is not a matter which they have treated lightly. However, having formed a view on the best way forward, it was their considered view that these decisions and the reasons for them should now properly be considered by Parliament, and hence it was right to proceed to lay draft orders before Parliament for these decisions.

Having received the direction letter from the Secretary of State, the Accounting Officer and other Departmental officials took the action that was required of them: the relevant papers were copied to the Comptroller and Auditor-General, the direction was implemented without further ado, and Ministers' course of action was explained when queries were raised.

Q10. *In the same reports (e.g. Guardian 11 Feb: <http://www.guardian.co.uk/politics/2010/feb/11/john-denham-civil-servant-exeter-norwich/print>) it is indicated that the Minister is aware that the decision is at high risk from a successful legal challenge. What are the grounds for pursuing the policy despite this risk. Have the costs of defending such legal challenges been included in the Impact Assessment?*

A10. In his direction letter to the Department's Permanent Secretary, the Secretary of State set out that:-

“...I have been advised, there is a high risk of successful legal challenge particularly to decisions to implement a unitary Exeter and unitary Norwich. I acknowledge that in seeking the best practical way forward for local people we have departed from the published criteria. I accept this raises the issue of the feasibility of delivering these unitaries. This is not a matter which we have treated lightly.

However, having formed a view on the best way forward it is my considered view that these decisions and the reasons for them should now properly be considered by Parliament, and hence it is right to proceed now to lay draft orders before Parliament for these decisions.”

The costs of defending legal challenges were not included in the Impact Assessment, since on the one hand a challenge was likely to arise whatever decision the Secretary of State took, and on the other the exact nature of any challenge could not be predicted. If the courts were to find against the Secretary of State, it would have been impossible for the purposes of the Impact Assessment to predict accurately in monetary terms what relief would be awarded, and in any event the likely costs of such litigation could be awarded against any of the parties to the proceedings depending on the outcome.

24 February 2010

Letter from Peter Housden, Permanent Secretary and Accounting Officer for DCLG, to Rt Hon John Denham MP, Secretary of State for DCLG

You and the Minister for Local Government are considering how to proceed in relation to proposals for new unitary local government structures in Devon, Norfolk and Suffolk. I note that, owing to family connections with the Devon area, in order to avoid any perception of bias you have remitted decisions on unitary proposals for Devon to the Minister for Local Government.

As Accounting Officer, I have specific responsibilities for the efficient, economic and effective use of the resources within the ambit of Communities and Local Government, and for value for money, judged for the public sector as a whole, of the Department's policies and their implementation. Having considered your and the Minister for Local Government's preliminary decisions on the unitary proposals before you, and the reasons for them which you have explained to us and which I understand, I do have concerns, principally about their value for money and feasibility. Accordingly, if you were to decide to proceed as you are currently proposing, I would be grateful for a written instruction from you to implement these decisions. Attached is a draft of a letter which you may wish to send me in response to my request if you or the Minister for Local Government decide to proceed as you are currently proposing.

To set this out properly, you and the Minister for Local Government currently consider-

- the Boundary Committee's proposals for unitary county councils in Devon and Norfolk do not meet all the five criteria, and you do not intend to implement them;
- the original proposals for a unitary Exeter and Norwich do not meet all the five criteria (in particular they do not meet the affordability criterion) but you intend to implement them nevertheless;
- the Boundary Committee's proposals for a single unitary council and for a two-unitary pattern for Suffolk both meet all the five criteria, the single unitary to the greater extent, but notwithstanding this assessment of the single unitary you do not intend to implement it (or the two-unitary pattern); and
- the original proposal for a unitary Ipswich does not meet all the five criteria (in particular it does not meet the affordability criterion) and you do not intend to implement it.

You have explained to us why, in certain cases, your preliminary view differs from the Boundary Committee and why, in relation to Suffolk, you are proposing to take no action as you consider a preferable outcome over time would be a unitary pattern which local government as a whole in Suffolk would accept, albeit not necessarily as its first choice. You and the Minister for Local Government have also explained your current intentions are to implement a unitary Norwich and unitary Exeter, notwithstanding your views that these unitary proposals do not meet the criteria, given the substantial gains you see this would bring in terms of jobs and economic growth for the city and surrounding areas. With the advent of the Total Place approach, these unitaries would also, in your views, have advantages for the quality of service delivery.

Whilst I understand these wider reasons, I am concerned that the approach you are currently proposing makes it difficult for me to meet the standards expected of me as Accounting Officer.

My main concern about your proposed course has to be value for money for the public purse. It would impact adversely on the financial position of the public sector as compared with the alternative courses of action open to you. Your currently proposed approach is estimated over the period to 2014/15 to involve net costs of £400k, made up of

transitional costs of £39.8m and gross savings of £39.4m; annual on-going savings thereafter are estimated at £6.6m. I recognise that if your proposed approach of a unitary Norwich and Exeter achieves the economic gains you envisage, there may be off-setting benefits to the public purse from increased jobs of extra local and national tax revenues and reduced benefit payments. The evidence for such gains is mixed and representations that you have received provide no evidence to quantify such benefits. I also recognise your proposed approach may open the way for improved public services through the Total Place approach, but this will be dependent on the collaboration of all the councils concerned and as yet there is no clear evidence of the costs and benefits that may arise.

However, you currently share the Boundary Committee's view that a single unitary Suffolk meets all the criteria, and if you were to implement it, over the same period there would be estimated net savings of some £26m, involving transitional costs of £42m and gross savings of £68m; annual on-going savings thereafter are estimated at £21m. Adopting the Boundary Committee's recommendations in full for each county area would over the period to 2014/15 give estimated net savings of £78.5m, involving transitional costs of £158m and gross savings of £236.5m; annual on-going savings thereafter are estimated at £54.5m.

Moreover, any departure from the criteria when taking your statutory decisions also raises feasibility, as well as value for money, concerns. Whilst there is no statutory basis for the criteria, there is a legitimate expectation that they will be the basis of your decisions. Your proposed approach of implementing a unitary Exeter and Norwich, and not implementing a unitary council for Suffolk would be a departure from the criteria, and whilst I recognise you could adduce your reasons for this as public policy grounds for not meeting the legitimate expectation, my clear legal advice is that the risk of decisions for a unitary Exeter and Norwich, and indeed for not taking action on Suffolk, being successfully challenged in judicial review proceedings is very high. You have been advised that there is every likelihood of such judicial review proceedings being commenced. This poses significant risks for the feasibility of successfully delivering your currently intended approach. The probably nugatory expenditure which this would entail, particularly in the case of Exeter and Norwich, could only exacerbate the worries I have described about value for public money. And it would also put pressure on departmental resources, altering priorities.

You are currently seeking your colleagues' views on your intended approach to restructuring. In the light of their views and having regard to any further representations you have received, you and the Minister for Local Government expect shortly to take your statutory decisions under the Local Government and Public Involvement in Health Act 2007 whether to implement, with or without modification, any of the unitary proposals before you, or to take no action on them.

For the reasons I have set out above, if you and the Minister for Local Government were to decide to proceed as you are currently proposing, I would be grateful for your written instruction to implement such a decision. On receiving such an authorisation, I will of course fully and effectively carry out your instructions. As I am required to do, I will send copies of your instruction and this letter, to the Comptroller and Auditor General, who will normally draw the matter to the attention of the Public Accounts Committee.

8 February 2010

Letter from Rt Hon John Denham MP to Peter Housden

Thank you for your letter of 8 February. You have raised your concerns following the consultation with Ministerial colleagues initiated on 1st February.

You have sought a written instruction to carry out our decisions if the Minister for Local Government and I decided to proceed on the basis of the proposals on which we had consulted. We have now taken our decisions, which are to proceed as we were proposing in relation to Exeter, and Norwich. In the case of Suffolk we have decided not now to reach a final statutory decision and invite all the Suffolk councils, MPs and other stakeholders, through a countywide constitutional convention, to reach a consensus on a unitary solution for that area.

I have carefully considered your concerns about the value for money and feasibility of what we were proposing. I note that you have presented and costed what are described as three alternative courses of action - one being implementing a unitary Exeter and a unitary Norwich, another implementing a unitary Suffolk, and the third implementing single unitary councils in each of the counties Devon, Norfolk, and Suffolk.'

Your letter could be read as suggesting that our decisions on Devon and Norfolk should be assessed against the financial implications of implementing a unitary country council for Devon, Norfolk and Suffolk. As this is not the basis on which we were advised to proceed it is important that I set out the basis on which we have taken our decision.

I would wish to emphasise that we have approached our decisions, as we have been advised to do, on the basis of carefully considering each of the unitary proposals before us on its merits, taking care to follow a consistent approach for all seven proposals. In doing so we have sought to balance a number of factors in each case, rather than comparing the costs and savings of a single approach with the costs and savings of the implementation as a whole of the Boundary Committee's recommendations.

I am concerned that your letter implies that the public interest lies with adopting the cheapest option across all three counties. Rather, as we have been advised, we have carefully assessed each proposal against the five criteria. We have given careful consideration to the circumstances in which there are compelling reasons to depart from the presumption that proposals that meet the criteria are implemented, and those that do not are not implemented. The Minister for Local Government in the case of proposals for Devon, and I in the case of proposals for Norfolk and Suffolk have taken the decisions which we are clear are in the best interest of the people of those areas, and for which there is a genuine local appetite in those areas.

We have given due weight to the capacity of new local authorities to promote economic growth and jobs, deliver effective public services and to implement our decisions with local support. We also believe that it is right to take into account the potential for more efficient ways of working across local authority and public service boundaries reflecting the 'Total Place' approach endorsed in the recent Smarter Government Command Paper.

In the case of a unitary Exeter and a unitary Norwich, we consider that each would be a far more potent force for delivering positive economic outcomes both for the city and more widely than the status quo two-tier local government. Economic development - delivering jobs and economic growth for the locality - will in our view remain a high priority for the Government. I note that you recognise that this may have direct benefits for the public purse. I accept that the Boundary Committee process did not produce evidence to quantify these benefits but nor did we think it right to set these potential benefits wholly to one side. We also believe a unitary Exeter and Norwich could open the way for improvements to the quality of public services, allowing services for the cities to be tailored to the needs of the urban area, and with the Total Place approach still achieving

the economies of scale that are possible under the county-wide delivery of such services as adult social care and children's services.

In the case of the proposals for unitary county councils in Devon and Norfolk, we consider that, on the basis of representations we have received, we cannot share the Boundary Committee's view that these proposals meet the broad cross section of support criterion. In particular, a material factor for us is that none of the principal councils in the county areas support the proposals (although we recognise there is support from a range of other stakeholders). The Minister for Local Government also considers that in Devon, following representations in particular from Exeter City Council, the single unitary proposal does not meet the neighbourhood empowerment criterion.

For Suffolk, although I share the Boundary Committee's judgement that the single county unitary and the two-unitary option both meet the criteria, I recognise that neither option is supported by all the principal councils in the county. I also recognise that there is wide agreement across the county that there should be a unitary solution in some form. Accordingly, I have decided not now to reach a final statutory decision and invite the all the Suffolk councils and MPs, consulting other stakeholders and through a county constitutional convention to reach a consensus on a unitary solution for that area.

Finally, I acknowledge that The Minister for Local Government and I have been advised, there is a high risk of successful legal challenge particularly to decisions to implement a unitary Exeter and unitary Norwich. I acknowledge that in seeking the best practical way forward for local people we have departed from the published criteria. I accept this raises the issue of the feasibility of delivering these unitaries. This is not a matter which we have treated lightly.

However, having formed a view on the best way forward it is my considered view that these decisions and the reasons for them should now properly be considered by Parliament, and hence it is right to proceed now to lay draft orders before Parliament for these decisions.

On this basis, the Minister for Local Government and I, having regard to the Boundary Committee's advice, the representations we have received, and all other relevant matters, have now taken our statutory decisions under the Local Government and Public Involvement in Health Act 2007, which are to implement, without modification, the proposals for a unitary Exeter and for a unitary Norwich; I have also decided to pursue a unitary solution for Suffolk through a county constitutional conference.

Noting your concerns, I would ask you to treat this letter as a direction to implement these decisions, which I believe will be of benefit to the people of Suffolk and to the people of Exeter and Norwich and the surrounding areas of Devon and Norfolk.

10 February 2010

**APPENDIX 2: DRAFT EXETER AND DEVON (STRUCTURAL CHANGES)
ORDER 2010: RESPONSES TO THE CALL FOR EVIDENCE RELATING
PRIMARILY TO THIS ORDER**

Item 1 - Submission from Ben Bradshaw MP

Background

1. Exeter is one of the historic English cities that lost unitary (county borough) status in the local government re-organisation of 1974, after several hundred years of self rule. The restoration of unitary status to the city has been a long-standing objective for Exeter's democratic representatives and the wider city community. It is supported by all 4 political parties represented on Exeter City Council – Liberal Democrat, Conservative, Labour and Liberal (in order of councillor numbers), Exeter's business organisations, Exeter University, the voluntary sector and the public in scientifically conducted polls on the issue.
2. Local government re-organisations since 1974 have seen other towns and cities in England (some of them smaller and of less strategic importance than Exeter) have their unitary status restored. These include the other main urban centres in Devon: Plymouth and Torbay.
3. Exeter therefore enthusiastically responded, with wide stakeholder support, to the Government's invitation in October 2006 for bids for unitary status. Based on the Government's policy of encouraging strong cities and city regions as engines of growth, There was no other bid or counter bid in Devon at that time and no expression of interest by Devon County Council in a single Devon unitary model. Exeter's bid did not include boundary changes because the Government had made clear it did not want such changes.
4. Exeter's bid was regarded at the time by the Government as a strong one, but it narrowly failed to meet 1 of the 5 criteria – “affordability” - that the costs of change would be compensated for by the benefits within 5 years. Bids at that time involving Cheshire and Bedford, to which you refer in your invitation to submit evidence, were approved, although they were deemed weaker than Exeter's, because competing/complementary unitary bids covering the rest of those county areas meant aggregated savings across the whole of Cheshire and Bedfordshire made it easier to meet the affordability criterion. The Government therefore invited the Boundary Committee to examine whether there were potential unitary solutions for the whole of Devon. It did the same with regard to Norfolk and Suffolk.
5. The Boundary Committee process has been less than satisfactory. After 2 years and considerable expense it made a recommendation for Devon (a single county unitary – including Exeter) that commanded virtually no support. The Committee's process was beset by problems and delays. These included a flawed consultation, which had to be restarted and a series of judicial reviews (led mainly by districts fearing for their abolition in the 3 counties affected). There has been a strong suspicion in Exeter and Norwich, that the Boundary Committee and some Government officials have not been balanced in their approach – favouring the more powerful counties against the cities.
6. Indeed, Professor Ron Johnston FBA resigned from the Boundary Committee last July because he felt its approach and had been unfair to Exeter and Norwich. In a letter of January 7th 2010 to the Secretary of State Professor Johnston wrote: “The position of Exeter concerned me greatly throughout the 15 months of discussions....Exeter is a major economic growth point, and in my view, such an important urban area should have its own separate local government (democratically accountable to its residents) with control over economic development and spatial planning...”

7. The Boundary Committee made its final recommendation for a single Devon unitary despite the fact that this model provoked the strongest opposition during its consultation and the fact that even Devon County Council itself had withdrawn support for it. A single Devon unitary would have had unprecedented and totally unacceptable consequences for Exeter – losing its existing district council status and being swallowed up into what would have been one of the biggest, largely rural, unitary local authorities in the country. There has been no other city of Exeter’s size or importance that has been absorbed into a unitary rural county in that way.

8. It was open to the Secretary of State to accept the Boundary Committee’s recommendation, to vary it or to reject it. Given the strong opposition throughout Devon to the idea of a single Devon unitary and the withdrawal of support for it even from the county council itself, it was clearly sensible for the Government to reject the Boundary Committee’s recommendation. Given the strong support within Exeter for unitary status and the opposition from the neighbouring districts of East Devon and Teignbridge to the idea of a “greater Exeter”, it was also sensible for the Government to revert to Exeter’s original unitary bid on its current boundaries.

9. As I have already stated, Exeter’s original unitary bid, now revived and approved by the Government comfortably met four of the five criteria originally set out.

10. Broad Cross Section of Support

Strong and consistent support from all 4 political parties represented on Exeter City Council – Liberal Democrat, Conservative, Labour and Liberal.

11. The support of the city’s main stakeholders: Exeter University, Exeter Chamber of Commerce and other business organisations, the Exeter Council for Voluntary Service. The overwhelming support of the public in Exeter in scientifically conducted opinion surveys. A petition containing more than 6,000 signatures from Exeter residents supporting Exeter’s unitary aspirations was collected and submitted to the Boundary Committee during its very short consultation period.

12. Leadership

“Strong, effective and accountable strategic leadership...is linked to community identity and the confidence citizens have that their democratic representatives understand the needs of their communities.” (Para 2.30, Boundary Committee’s ‘Draft Proposal for Unitary Local Government in Devon’ July 2008)

13. Community identity in Exeter is quite distinct from community identity in the rural and market town areas of the rest of Devon. Exeter is an historic and sizeable city. It is urban. Like most cities, its growth derived from the agricultural and industrial revolutions and, more recently, from the growth of the knowledge, science and service sectors.

14. One of the complaints I hear regularly as Member of Parliament for Exeter from constituents and their councillors is a feeling of powerlessness to influence the decisions made by Devon County Council under the current two-tier system. This sense of disempowerment, of being disenfranchised, has increased, as more and more funding and decision-making has been concentrated in the hands of the upper tier authority. A recent decision to build a new waste to energy plant in Exeter was taken, for example, without any input from Exeter councillors. Recent plans to establish an Education Trust for Exeter to help drive up school standards, involving all the city’s high schools, Exeter University and Exeter College, which enjoyed widespread and strong support in Exeter, foundered on opposition from the county education authority. There is considerable frustration within Exeter at the failure of the county highways and transport department to adequately address the growing congestion and transport challenges the city faces.

15. Exeter feels very strongly that the leadership provided by a single tier urban authority would be more coherent and strategic as well as more accountable. Some of the best performing and best led local authorities in England are medium to small urban unitary councils. A unitary authority would also be more likely to attract stronger candidates to stand for election and a greater interest from local government officers.

16. Equally Devon, whose current local government structure outside Exeter would not change under this proposal, would be better able to focus on its largely rural and market and coastal town character. There are many shire counties across England, whose main urban areas already had or have acquired unitary status that perform better than Devon.

17. Deliver the empowerment of citizens and communities

The Government's election manifesto in 2005 committed it to "self government for our communities". The Governance of Britain Green Paper (July 2007), The Community Empowerment White Paper (July 2008) and the Boundary Committee's own consultation document all stressed the importance of devolving power to local level as vital to revitalise democracy and improve services.

18. Voters in Exeter often say they are not clear under the two tier system which council has responsibility for what. This leads to buck passing between councillors and councils and a lack of satisfactory democratic accountability. Exeter City Council is seen as local, accessible and responsive, made up of members elected from the city. Devon County Council is seen as distant and unresponsive, dominated by members from rural districts.

19. All the main political parties at national level claim to support greater local decision making and devolving more power down to community level. This is precisely what a return to unitary status in Exeter would help achieve.

20. Value-for-money services

Some of the best performing local authorities in England, providing the best services and achieving the best value for money are small and medium sized urban unitaries. The Boundary Committee's own document (ref paragraph 2.19) stated there is "no fixed view about the optimum size of a unitary authority...in terms of the potential to be a high performer in the delivery of services."

21. Exeter City Council has consistently been one of best performing local authorities in England achieving high value for money ratings. It has delivered high quality and expanding services for its population while levying one of the lowest council tax precepts in the country. The role of local authorities is increasingly in the procuring or commissioning rather than the direct provision of services. The Trust model for Exeter's schools could be established without the need for a large new bureaucracy. There are a number of new and innovative models for providing or sharing the provision or commissioning of services in other parts of the country that could provide a model for Exeter in other areas. Torbay has one of the country's first wholly integrated health and social care trusts. It has been a great success and was highlighted as a model in the Government's new Primary and Community Care Strategy published last July.

22. Some have opposed Exeter acquiring unitary status because of the current co-terminosity between Devon NHS and the county council. However, there are perfectly successful models of PCTs covering more than one local authority area - unitary York shares a PCT with two-tier North Yorkshire and unitaries Bournemouth and Poole share a PCT.

23. There are other potential areas for successful joint working. Exeter already shares a Director for Economic Development with East Devon. The challenges of sustainable waste management already mean that even existing unitary and upper tier local authorities have to work together formally or informally on a sub regional or regional level.

24. *Affordability*

This criterion, that savings from reorganisation should outweigh costs within 5 years was always going to be extremely hard to meet for Exeter in the absence of unitary government in the rest of Devon. Professor Johnston, in his letter of January 9th said: “this criterion made the creation of a viable urban authority based on Exeter and its immediate surrounding area extremely difficult, if not impossible.”

25. The Minister, in her statement of February 10th, acknowledges this. She says in respect of Exeter and Norwich: “there are compelling reasons to depart from the presumption that unitary proposals which do not meet all five criteria are not to be implemented.”

26. She gives two reasons. The second is the change in the way in which services are delivered, which I have dealt with briefly above. The first is the important and increasingly important role Exeter and Norwich play as economic drivers for their wider sub regions. Exeter’s employment growth between 1998 and 2006 was the third highest in the country. In terms of productivity, Exeter has a Gross Value Added score 20% higher than the national average, one of the highest in the South West region.

27. Our urban-focussed city council has worked extremely successfully with the local business community, Exeter University and other local stakeholders to drive forward Exeter’s success. But it would be able to do much more if it had responsibility for all local decision making, including highways, transportation and strategic spatial planning.

28. The Minister acknowledges in her statement that the original 5th criterion ignored the economic benefits both to Exeter and the wider region of a single tier local authority helping to drive economic development, making clear that “affordability” should not be measured just in terms of the savings from the rationalisation of local authority staff and service provision.

29. This has been a long, drawn out and less than satisfactory process. There is a strong desire in Exeter and Devon for an end to the uncertainty and the negative impact that is having on the current provision of services and relationships between authorities – in particular Exeter City and Devon County councils. There is and always has been strong support in Exeter for unitary status. There is support in Devon outside Exeter for the current two tier system.

30. I therefore fully support the Government’s decision to grant Exeter and Norwich unitary status, while leaving the local government structures in Devon and Norfolk outside those cities unchanged.

19 February 2010

Item 2 - Submission from Cllr Jeff Coates

This is a response to the urgent invitation to comment issued on 12/02/2010.

I propose to submit evidence on a number of the points raised in the above document and also to add comments on a further issue which I consider vital to the case for a unitary authority for Exeter.

How likely are they to achieve the Government’s objectives.

I will concentrate on the role of stimulating jobs and growth.

Economically, socially politically and ethnically, Exeter differs to a significant degree from the rest of the proposed county unitary area. Many of its working population, who have come to the city from elsewhere (in Britain and abroad) and developed a sense of belonging to the city, interact more naturally with national and

international communities than they do with the wider county. This proposition can be rationalized by considering some of the city's most important employers. Exeter University is represented in the leading international research journals and its staff, students and alumni network with counterparts in London (and well beyond). A similar argument can be made for the Met.Office (including the Hadley Centre for Climate Change), the NHS and other organizations based in the city.

There is no doubting Exeter's position as an important sub-regional growth point, perhaps the most dynamic centre in the Devon economy and also, arguably, one with the greatest potential for further growth and prosperity. Local multiplier effects are frequently exaggerated in quantitative terms, but there are clearly spillover effects on the prosperity and employment levels of neighbouring areas. Not least, those who look to the city for a range of services, including shopping and leisure facilities, benefit from significant externality effects that more business activity and greater prosperity entail.

Such beneficial spillovers would occur, whatever the pattern of governance of the greater Exeter area. **However, in one respect, it could be argued that government structure does have a significant influence**, that being the role of attracting and facilitating the movement of major new businesses and other organizations to the area. Exeter City Council can justifiably claim success in playing a crucial part in attracting the Met. Office to the city and also in bringing a major investment in retailing provision (Princesshay) in recent years. There are other examples of organizations which the city has "won" in the past, in the face of vigorous competition from *within* Devon. Despite claims from elsewhere that this role could be more successfully performed by a two-tier structure it is difficult to understand intellectually why this should be the case and, still less, to find evidence to support the claim that an alternative to a city based and city focussed authority would be more effective in this role.

Whether the estimates of costs and benefits are accurate.

"It is better to be approximately right than precisely wrong"

A variety of widely differing estimates have been produced as to the costs and benefits of unitary government for Exeter and protagonists in the debate tend to quote those (especially the costs) which favour their case. My understanding is that the Exeter bid failed very narrowly to fulfil one specific financial requirement, which was to promise pay-back within 5 years (it would have done so in 6 years). The pay-back rule is a very crude criterion and is often dismissed in academic studies of project appraisal techniques and indeed was criticized by an independent member of the Boundary Committee who resigned in protest at that committee's advice to the secretary of state in favour of a unitary county.

A far better approach, although rather less susceptible to a quantitative solution, would be to recognise the need to incorporate the benefits in terms of democratic accountability from a more representative governance structure as well as the financial costs of a restructuring exercise. Such a social cost-benefit analysis would, in my view, yield a clear and significant positive net present value.

Whether the 'outcome of consultation' accurately represents the various views.

On the evidence presented to the Boundaries Committee (BCE), nearly two thirds of those making representations overall supported retention of the two-tier structure (this is an understatement, given that the committee did not count pre-paid postcard responses) while the support of the Exeter population for a unitary council for the city was well documented in its various bids. Adopting the original Exeter bid, which would retain the existing structure elsewhere, is therefore substantially in accordance with the wishes of the people, not only in Exeter, but also in Devon.

The BCE attempted to justify its advice by emphasising “evidence” (which, on analysis, is largely unconvincing) rather than numbers. One has to ask the questions: who is local government *for*? And who *pays* for it? Many of the ‘key partners’ and ‘stakeholders’ consulted were, in effect, creatures of the County Council (this is especially true of the educational bodies, many of which have been subjected to concerted “advice” on the matter by Devon County Council over a long period). Other bureaucracies argued that dealing with two or more unitary authorities would be “more complex” than dealing with one. That is essentially a truism, but momentary reflection suggests the extent of the greater complexity would be trivial indeed, compared to the disadvantage likely to be suffered by the voting population in terms of a huge democratic deficit.

Whether the changes might give rise to unintended consequences.

The response to the ministerial announcement by Devon County Council and other opponents of Exeter’s wish for unitary status has been hysterical and hyperbolic. Claims that the decision was “crazy” or “laughable” and that the consequences might be “disastrous” are simply not susceptible to critical scrutiny. When people in senior positions of responsibility resort to such language, it is difficult to avoid the conclusion that they are bereft of anything more concrete to add to the debate.

A prime example is the claim that, by granting unitary status to Exeter, “the heart would be torn out of Devon” as if the proposal is to physically re-locate the city. Just as in the 800 years or so before 1972 that Exeter enjoyed self-government, it will continue to function as county town, the major locus of agricultural markets, a legal centre, a transport hub, a cultural capital and a major retailing base. All of these roles (and more) were, are and would continue to be enjoyed by the county and indeed by the wider region regardless of the structure of local government.

A Further Issue

I mentioned earlier an (implied) trade-off between financial cost and benefits conferred by more democratically accountable government for Exeter.

The essence of the rationale for local government is heterogeneity of preferences on the part of voters/taxpayers. The greater the degree of difference in the demand for local public goods and services, the greater the case for the exercise of choice by residents in different areas. Moreover, the more local the authorities, the more likely they are to be well informed about distinct preferences. Indeed, it can be demonstrated that significant welfare losses arise when voters in localities with differing preferences are required to accept compromises in the form of more centrally determined provision. **The distinctiveness of Exeter as a community** goes beyond the urban/rural preferences divide which Exeter City Council has stressed in its case for a unitary council based on Exeter. Exeter is, indisputably urban, of course, albeit with significant open countryside within as well as without its borders and some of its constituent parts retain their identity as the towns and villages which became absorbed into the city. However, Exeter has also an urban identity unique among the other urban centres in Devon (not least, perhaps, reflecting its importance as an administrative, defensive and communications hub from at least Roman times, as well as its 800 years of continuous local self-government, with one of the country’s oldest mayoralities at its head).

Under the present two tier structure, decisions on major public services are taken at County Council level. Given the distinctive political preferences of Exeter people, these decisions are likely to be an imperfect reflection of voters’ preferences. Consider the present political representation of Exeter on the County Council following the most recent elections: out of the 63 seats on DCC, 9 represent divisions in the city of Exeter. More significantly, consider the composition of the DCC cabinet: of the 10 members (including the Leader) only one is elected for an Exeter seat.

It might be argued that Exeter is no worse-off than any other district. However, because of the distinctive political preferences of Exeter *vis-a-vis* the more rural areas, I would argue the contrary: Exeter suffers more from a disconnect between preferences and outcomes. I give below the proportional political composition of the two councils following the most recent (respective) elections: (%)

Cllrs by Party **Con.** **LibDem.** **Lab.** **Lib.** **Green** **Ind.**

DCC	63.5	22	6	1.6	4.5
ECC	30	32.5	27.5	10	

(percentages may not sum to 100 due to rounding).

In summary, I would urge support for the city of Exeter to achieve, along with the other great historical regional capitals of England, the status of a fully self-governing community.

February 2010

Item 3 - Submission from the Crediton Chamber of Commerce and Crediton Area Marketing and Management

1. This submission to the Merits of Statutory Instruments Select Committee of the House of Lords concerns the Draft Exeter and Devon (Structural Changes) Order 2010.
2. It is submitted jointly by the Crediton Chamber of Commerce (Crediton Chamber) and Crediton Area Marketing and Management (CAMM). Crediton is an ancient Devon market town about seven miles north-west from its neighbour, Exeter. It is within the Mid Devon District Council area, which borders the Exeter City Council area, and within the Administrative County of Devon.
3. Crediton Chamber represents the business and commercial community in Crediton and the villages around it. This includes medium and large-scale industrial concerns, High Street shops, professional partnerships, farms and those in the local tourism industry. Membership is open to any business in the Crediton area, both in the town and the rural area surrounding it.
4. CAMM is a partnership between Crediton Chamber, of which it is part, and local authorities and industrial sectors including tourism. It was established to help promote economic regeneration and the growth of local businesses.
5. This submission is signed by the chairmen of both Crediton Chamber and CAMM.

Unitary status for Exeter

6. Our main concern is with the economic prosperity of our area. Our members may have individual views about the desirability or otherwise of unitary local government, but in this submission we are concerned only with the effect of the proposals on the economic prosperity of the area and the impact on the business community.
7. The first point we would make about the proposal for the granting of unitary council status to Exeter, and it is one we feel strongly to be very important, is that this is a proposal that will impact on the whole of Devon, and not just on Exeter. It should be judged on the basis of its impact across the county and not just on that one part represented by Exeter City Council. The Government seems to have judged this almost exclusively on the basis of what would be good for Exeter. We hope that Parliament will

take a broader view and consider the impact on neighbouring areas like ours, as well as the wider county interest.

8. Local government reorganisations are always expensive to bring about. We note that the Department for Communities and Local Government (DCLG) does not believe that the proposal for Exeter will meet its own criteria of affordability, a view now taken twice by Ministers at the Department. We agree with this view.

9. We also note that the Permanent Secretary at the DCLG, Peter Housden, has taken the unprecedented step of requiring his Secretary of State to give him written instruction to proceed with this because of the Permanent Secretary's concern about the decision.

10. In the written statement published by the DCLG when the Government laid the Order before Parliament, we note that the Government claimed that its priorities were "above all for jobs and economic growth. Local government has an essential role to play in delivering these economic priorities, and this role is of a significance that could not be contemplated in 2006 when the criteria were developed." It went on to say that the Government believes "that a unitary Exeter ... would ... be a far more potent force for delivering positive economic outcomes both for the city and more widely than the status quo two-tier local government".

11. Representing the commercial sector, our priorities are also for jobs and growth. Yet economic prosperity is created by the private sector, not local government. We see no evidence that local government in Exeter, whether single or two tier, will play the role that the Government seems to believe it can in this field. Local authorities can help at the margins, but can also be a negative factor for business if costs increase as a result of its actions.

12. In the specific case of Exeter, we note that it is a small authority both in terms of population and geography. Virtually all the areas necessary for business expansion lie outside the boundaries of the City council, including the airport, Skypark and science park. It is difficult to see how "a unitary Exeter ... would ... be a far more potent force for delivering positive economic outcomes both for the city and more widely than the status quo two-tier local government", as the Government claims, when all the areas for economic expansion will remain in the two-tier local government structure of Exeter's neighbours.

13. The Government is right in observing that the situation has changed since 2006, but we believe that this makes it less likely that local government can play a significant role in creating jobs and prosperity. It is clear that the present state of the public finances is extremely poor and that government spending will have to be cut if the budget deficit is to be reduced. This is already beginning to happen and this is a process that will accelerate after the imminent general election, whichever party forms the next government. Local government will have to take its share of reduced budgets, which means reduced staffing levels and reduced capability. The local secondary school in Crediton, for example, which is the largest employer in the town, is planning redundancies now. Local government will therefore be less capable than it was in 2006 to play a leading role in increasing jobs and economic prosperity.

14. In early February we held a meeting with the Cabinet Member for Planning and Economic Regeneration and the Economic Development Manager for our district council. They saw a role for local government in supporting local commercial enterprises and helping to generate growth and had allocated an increased budget for this. We welcomed this and will be working with them, yet it was clear that at best the impact of their activity will be marginal. It is entrepreneurs who create wealth, not councillors or local government officers, however well-meaning and helpful they wish to be.

15. We therefore view with disbelief the claim that the Government made in its written statement published by the DCLG when the Government laid the Order before Parliament, that it believed “that a unitary Exeter ... would ... be a far more potent force for delivering positive economic outcomes both for the city and more widely than the status quo two-tier local government”. We think this claim is absurd, being based on wishful thinking rather than objective evidence. The Government rightly claims to be in favour of evidence-based policy making. We see no evidence to support its belief in this area. We do not believe that local government in Exeter, of whatever kind, will be a “potent force for delivering positive economic outcomes both for the city and more widely”.

16. While there are those in Exeter who support a move to a unitary council, we know of no organisation representing the area outside it that believes a unitary Exeter would be a “potent force” for the wider area. The Devon Business Forum is against the idea because of the negative impact on business across the county of Devon and we support their view.

Impact on services

17. Splitting the services at present provided across the whole Administrative County of Devon will result in diseconomies of scale, especially in Exeter, whose population will make it one of the smallest unitary authorities, but also in the remainder of the county. Services will either become more expensive to provide, have to be reduced to remain within budget or will no longer be viable. This can only harm the provision of services, both to individuals and to businesses.

18. One of the unintended consequences of breaking up county services will be to worsen services at a time when, because of the economic conditions that will apply for some while to come, local government in the county will be even less able to cope than previously. Local government in Devon already faces challenges not faced in most areas. For example, at 8,000 miles Devon has the largest network of roads of any county in the country, yet does not have the resources for the standard of maintenance that we would like to see. Poor communications have a negative impact on business. In education, the funding for Devon schools by government grant is one of the lowest in the country, ranked at 148th out of 151 local authorities with responsibility for children’s services (excluding the very small Isles of Scilly). The rural nature of most of the county means that meeting new government policy initiatives, such as the level of cooperation between educational establishments necessary to deliver the new 16 to 19 Diplomas, is more difficult and costly than in most of England. This is a concern to businesses as employers interested both in the educational standards of those entering the job market and in training for those employed or seeking re-employment. Rural poverty, while less visible than urban poverty, is nonetheless real, yet Devon is one of the lowest funded authorities in England.

19. At district level, Mid Devon District Council was recently judged by the Audit Commission as one of the three worst performing councils in England. We draw the Committee’s attention to this not to denigrate the Council, which has worked hard to improve recently, but to illustrate the fact that local government in the area immediately next to Exeter is fragile. Taking local government as a whole, to add the cost and disruption of creating a unitary authority in Exeter to the existing difficulties in this area at a time of declining budgets and inevitably reduced staffing is, we believe, to add a wholly unnecessary burden and an unjustified distraction.

20. Machinery of government changes are always disruptive for a significant period of time, when staff involved are, understandably, more focused on their own futures and the restructuring of the service they work in than in delivering services to the public. This applies at national and local government level. Machinery of government changes should

therefore only be undertaken if there is a clear benefit that will result. We do not believe that is the case here.

21. The cost of restructuring local government in Devon will be high. We believe that Exeter has under-estimated the cost. Increasing costs, especially at this time, will have a negative impact on businesses in and around Exeter. Local authorities inside the city and outside it will have to raise their charges where they can and this will impact negatively on businesses. Residents in Exeter will have to pay significantly more in council taxes and will therefore have less disposable income. That will have a negative impact on businesses in neighbouring areas like Crediton, where some Exeter people go to shop.

22. Exeter is not a self-contained area. Some 41% of its workforce, 29,000 people, commute into the city from neighbouring districts while 10,000 commute in the other direction. In comparison, the net commute into Plymouth, a unitary council that was part of the Administrative County of Devon, is only 6%. We are also aware of the considerable financial difficulties that Torbay has suffered since it became a unitary council and ceased to be part of the Administrative County of Devon. Torbay has a bigger population than Exeter.

23. The pattern of employment in Devon, and in particular our part of the county, is diverse and has a disproportionate number of micro businesses employing fewer than five people. Such businesses are particularly vulnerable to additional cost pressures such as those that can result from an expensive reorganisation of local government.

Conclusion

24. In conclusion, the Crediton Chamber of Commerce and CAMM oppose the move to unitary status in Exeter as we believe it can only be achieved at an unacceptably high cost that will have to be borne by those in the rest of Devon as well as by residents and businesses in Exeter.

25. While opinion is divided in Exeter, it is pretty well unanimous against the move in the rest of the county, which will suffer increased costs and a reduction in services for a move that is of no benefit to anyone outside Exeter. We see little if any evidence to support the claims that a change in local government organisation will lead to increased economic performance. If the evidence was there, then as businesses we would support the move, but it is not. We believe that a move to unitary status for Exeter should only proceed if there is evidence of economic benefit, and to the county as well as the City. We see no such evidence and therefore oppose the move.

19 February 2010

Item 4 - Submission from Devon and Cornwall Police Authority

I am writing in some haste to respond to the request for evidence to submit to the Merits Committee of the House of Lords in relation to their consideration of Government proposals to establish a single Unitary Local Authority for the City of Exeter.

Please forgive the fact that this will reach you by e-mail but the deadline for submissions was very short. It will also be sent to you by fax in the hope that by one method or another it reaches you in time.

From the very beginning of what has been a rather protracted process of looking at possible changes from the present two-tier structure of local government in Devon to a unitary one, the position of this Authority has been consistent.

Many of our representations are not now relevant to the detailed aspect of this currently under consideration and accordingly I shall not dwell on them in detail here. This

Authority, and the Merits Committee, now seemingly has to be concerned with just one narrow aspect of possible changes - namely the Governments' proposal to only establish a Unitary Authority for the City of Exeter and leave the remainder of Devon as it currently is.

This proposal is seen as the worst of all possible changes. It is seen as creating a very unsatisfactory arrangement for the City of Exeter. However it is also seen as creating an even worse situation for the remainder of Devon. It is very unfortunate to just look at the position as it impacts on the City to the exclusion of the effects any such change would have on the remainder of the County. And the evidence currently suggests that the Governments' decision has been taken with a total disregard for the wider impact that it would have.

In a letter dated 10 April 2008, this Authority submitted its representations to the Electoral Commission in the context of a consultation about a proposal for a Unitary Exeter. The letter referred to an even earlier letter and included the following paragraph:

“In 2007, this Authority opposed the bid from Exeter City Council as you may know. Our concerns then were about the potential impact on policing services that would result from that bid being successful. Our view was formulated around three factors. Firstly, there would be an adverse impact from the creation of another “top tier” authority (as we then described it) because of the increase in the number of committees that would need to be serviced both by the Authority and by the Constabulary. Secondly, we were also concerned that there would be a dilution in the level of policing that could be provided in the rest of the Force area. And thirdly, this Authority was concerned that there would be a lack of logic in creating another smaller council while at the same time much more unified systems were being set up to deliver such services as Children’s Services and a unified Devon Primary Care Trust. The view of this Authority at that time was unanimous in opposing the City Council’s bid. As Exeter City developed and sought to supplement its initial case the weakness of their financial case also became more and more apparent and we said so. The creation of another unitary council, whilst the rest of Devon remained “two-tier” would have an adverse financial impact on the rest of Devon.”

I now write to draw those concerns to the attention of the Merits Committee. This Authority stands by those earlier representations. In examining the proposals, it was entirely clear that there was no financial justification for that proposed change. The financial effects on the rest of Devon were severely disadvantageous. That is what we said. But since then the Boundary Committee itself has consulted widely, taken widespread views that were submitted, weighed them, AND it has also employed its own financial advisors to assess the financial justification for, and viability of, possible changes. That Committee received evidence that the financial case just did not stand up. It did not stand up for the Exeter proposal. Even more, it did not stand up for the rest of Devon either. Clearly there is just no financial justification for the changes and the Government’s decision seems to have been taken without any proper regard for those facts. It represents a potentially wasteful regard for public and local taxpayers money.

Astonishingly (and this is no criticism of the Permanent Secretary), it appears that even the Permanent Secretary and Accounting Officer in the Department for Communities and Local Government recognises this to such extent that he required a direction from the Secretary of State to implement the unitary Exeter decision! In his letter of 10 February 2010 to the Secretary of State it is clear that he was not prepared to implement them on his own responsibility. He makes clear that not only is the financial case for the proposals unsustainable, but the proposals also fall short of the Government’s own declared criteria for judging the efficacy of making changes. He has also indicated to the Secretary of State

that the prospects of a successful challenge to the proposal in the High Court by way of Judicial Review are high.

In all these circumstances I urge on behalf of this Authority, that the Merits Committee rejects the Statutory Instrument which seeks to implement the Government's decision. The decision currently represents not only no improvements in the current structure but also represents a potential significant waste of public money to the disadvantage of Council Tax payers across the whole of Devon.

Please note that the version of this letter sent by e-mail is clearly not properly and personally signed because I do not have the technology to do that. However a properly signed copy will be being sent by fax and will also be sent by normal snail mail.

20 February 2010

Item 5 - Submission from Devon County Council

Introduction

1. Devon County Council welcomes the Committee's examination of the draft Order and hopes that this submission will help to inform its debate. We are concerned about the process which led to the decision to create a unitary council for the city of Exeter. In deciding to implement a unitary authority for Exeter, the Minister for Local Government has disregarded the views of the people of Devon and the advice of both the independent Boundary Committee and the Permanent Secretary. We believe that the Secretary of State is acting for a predetermined purpose, namely seeking to gain political advantage.

2. Devon County Council believes that the interests of the people of Devon will be best served by keeping Devon together and urges the Committee to draw the special attention of the House to this draft Order on the grounds that it is politically and legally important, and gives rise to issues of public policy of interest to the House.

3. The two documents which we have submitted with this evidence explain in more detail why a unitary authority for Exeter would fail to achieve the Government's objectives:

i) "*Comments on Exeter City Council's Proposals for a Unitary Authority for Exeter*" (submitted to the Department for Communities and Local Government on 19 June 2007)

ii) "Comments on the supplementary information published by Exeter City Council on 22 June 2007" (submitted to DCLG on 29 June 2007).

Legal Proceedings

4. The Committee will be aware that the Permanent Secretary was so concerned about the Secretary of State's decision to lay this Order (and that for Norwich) that he was compelled to take a step unprecedented in the history of his Department: seeking a written political instruction from the Secretary of State. The Permanent Secretary, Mr Peter Housden, wrote: "*My main concern about your proposed course has to be value for money to the public purse. It would impact adversely on the financial position of the public sector as compared with the alternative courses of action open to you.*" He advised that "*I am concerned that the approach you are currently proposing makes it difficult for me to meet the standards expected of me as accounting officer.*" He also said that "*my clear legal advice is that the risk of decisions for a unitary Exeter and Norwich... being successfully legally challenged in judicial review proceedings is very high*".

5. The County Councils of both Devon and Norfolk are so concerned about the Secretary of State's decision and the process that led to it, that they have jointly issued proceedings for Judicial Review against the Secretary of State for Communities and Local

Government. The grounds of claim are that he acted unlawfully in relation to the Exeter and Norwich decisions because they:

- (i) are contrary to the Claimants' legitimate expectation that the Secretary of State would act consistently with the approach promised and reinforced over the past three years;
- (ii) are flawed because of inadequate consultation;
- (iii) fail to comply with a duty to give reasons;
- (iv) are irrational;
- (v) were made for a predetermined purpose;
- (vi) are procedurally unfair; and
- (vii) are contrary to the legitimate expectation that Ministers will act in accordance with the Ministerial Code of Practice and the law.

Failure of Draft Order to achieve the Government's policy objectives

6. The policy objective underpinning the draft Order is that "In some county areas there is a widely held view that moving to unitary structures would be the best way of overcoming the risks and challenges of two-tier arrangements. Such a move would improve accountability and leadership, increase efficiency, and improve outcomes for local people." (para 3.55, Local Government White Paper, October 2006). The White Paper indicated Government's intention to invite proposals for unitary local government which:

- " - enhance strategic leadership, neighbourhood empowerment, value for money and equity;
- command a broad cross-section of support; and
- are affordable, representing value for money and meeting any costs of change from councils' existing resources"

7. Devon County Council's view is that the draft Order fails to achieve those aims: it will weaken leadership, lead to the duplication of local government and other public service (eg health and policing) functions, create diseconomies of scale, is not affordable and will not represent value for money for the public purse.

8. In February 2008, the Secretary of State asked¹⁶ the Boundary Committee for England (a committee of the Electoral Commission) to provide independent advice on alternative unitary structures for local government in Devon which were likely to achieve the policy objectives. The Committee provided that advice on 7 December 2009 and recommended, after 22 months of detailed and comprehensive work, that local government take the form of a single unitary authority for Devon. The Committee also recommended that Exeter City Council's proposal should not be implemented. In making her decision, the Minister for Local Government rejected that advice and decided to take no action on the Boundary Committee's proposal.

9. The Local Government White Paper included a pledge that in order that unitary local government is to the benefit, not detriment, of health and well-being services "wherever possible we will ensure that local authority restructuring complements new PCT boundaries and provides a greater degree of coterminosity" (para B12). The Devon PCT and County Council areas are coterminous. The Minister's rejection of the Boundary

¹⁶ "Request to the Boundary Committee to advise: Proposals for future unitary structures" (DCLG,6 February 2008)

Committee's advice and her decision to implement a unitary authority for Exeter will be particularly detrimental to the provision of health and well-being services.

Objections to the proposal from the public and stakeholders

10. There were, according to DCLG's November 2007 summary, 542 responses (and 180 "campaign responses") to the 12 week consultation on Exeter City Council's proposal which was conducted between March and June 2007. The DCLG analysis of views expressed by respondents reveals little evidence of public or stakeholder support¹⁷. The "great majority of public responses received by the Department during the consultation expressed concerns about the proposal. Issues raised included the loss of Devon's last major urban area and county town and the revenues it generates; the close economic and demographic relationship between Exeter and its hinterland; and that other unitaries within Devon were said to have struggled since gaining unitary status. Of those respondents who supported the bid, most were from within Exeter itself." (para 65)

11. The representations to DCLG made by bodies responsible for providing public services in Devon were wholly against the proposal:

"Creating a third unitary council within Devon county would...lessen our ability to target resources at the greatest need around the county, requiring extra coordinating effort and resources" Stephen Otter, Chief Constable, Devon and Cornwall Constabulary.

"The Trust would be most concerned at the loss of coterminosity with Devon County Council that such a development would bring in its wake" Dr David Radford, Chairman, Devon Primary Care Trust

"There is no case for Exeter City Council to gain unitary status. The authority would be too small to deliver cost effective services to its five comprehensive schools" Dr Chris Roberts, Partnership Director (Devon), Learning and Skills Council Devon and Cornwall

12. The views of the public, public service providers, the business community and voluntary/community groups demonstrate that there is negligible support for the change to a unitary Exeter. The DCLG's February 2010 analysis¹⁸ of the representations received by the Secretary of State between 8 December 2009 and 19 January 2010 shows that 56% of respondents favoured retaining the status quo.

Financial risks and failure to meet affordability criterion

13. In July 2007, the then Secretary of State considered that "there are a number of risks to the financial case set out in the proposal. These relate to the potential diseconomies of scale inherent in disaggregating county services and, the potential impact of removing the County's internal cross subsidy"¹⁹. She therefore invited Exeter City Council to undertake further work and submit additional information on the financial viability of its proposal. In December 2007, she considered "that there are still a number of risks to the financial case set out in the proposal. In particular she believes that, allowing a reasonable estimate for costs, the pay back period for your proposal may be over the 5 years specified by the affordability criterion. Overall, therefore, she has concluded that there is not a reasonable

¹⁷ Paragraphs 59 to 65 of "Proposals for future unitary structures: Stakeholder Consultation – Summary of Responses (November 2007)" www.communities.gov.uk/documents/localgovernment/pdf/550256.pdf

¹⁸ "Proposals for future unitary structures in Devon, Norfolk and Suffolk: period for representations – Summary of Responses" www.communities.gov.uk/documents/localgovernment/pdf/1464374.pdf

¹⁹ Letter dated 25 July 2007 at www.communities.gov.uk/documents/localgovernment/pdf/decision-letter-exeter.pdf

likelihood of the proposal achieving the outcomes specified by this criterion.”²⁰ The Minister for Local Government, in laying the draft Order before Parliament, agreed with that assessment. The draft Order provides for the establishment of a local authority that, by the Minister’s own admission, fails to satisfy the affordability criterion.

14. Exeter City Council submitted to DCLG a review²¹, prepared on its behalf by a financial consultant (Deloitte), of the financial case for its Exeter unitary bid. That review listed 16 risks and issues associated with the costs and savings and concluded that “further detailed analysis is required to support the proposals for a unitary Exeter”. The risks, uncertainties and assumptions in the financial case which Exeter City Council’s own consultants highlighted, confirm the Government’s view that there is no likelihood that a unitary authority for Exeter would be affordable.

15. The Permanent Secretary has, as required, sent a copy of his exchange of letters with the Secretary of State to the Comptroller and Auditor General. The Permanent Secretary explained that the Comptroller “will normally draw the matter to the attention of the Public Accounts Committee”.

Inconsistent approach to decision-making

16. Since the publication of the Local Government White Paper in October 2006, the Secretary of State has consistently stated that when considering whether to implement a unitary proposal, he would consider whether it was reasonably likely to meet the five criteria set out in the accompanying invitation²². The then Secretary of State for Communities and Local Government assured Members of the House of Commons that “the strongest bids would be considered against extremely strict criteria” (Hansard 22 Jan 2007: Column 1150). As recently as 7 December 2009, the present Secretary of State wrote to the chief executives of local authorities in Devon, confirming that his decision on the Exeter proposal would be based on its capacity to deliver the outcomes specified by the five criteria. The Parliamentary Under Secretary of State (Barbara Follett MP) met members of Devon County Council and a senior officer on 18 January 2010 and at no time did she suggest to them that the Secretary of State was planning to depart from his published approach.

17. In making the decisions on 8 February 2010, the Minister failed to explain why the Secretary of State had suddenly decided to “depart from the presumption that unitary proposals which do not meet all five criteria are not to be implemented”. She also failed to provide adequate reasons why there are “compelling reasons” to do so.

18. The creation of jobs; the fostering of economic growth and a desire to improve public services have been amongst this Government’s policy objectives for the last 13 years. The Minister provided no evidence to explain why those objectives should now have special relevance to the decision to implement a unitary authority for Exeter and what had changed since the Secretary of State’s letter of 7 December 2009.

19. The second “compelling reason” for departing from the five criteria was that a unitary authority for Exeter “could open the way for improvements to the quality of public services. Through innovative shared services and partnership arrangements...” A unitary authority for Exeter would not be capable of providing or procuring the range of services for which it would be responsible without recourse to complex and costly joint

²⁰ Letter dated 5 December 2007 at www.communities.gov.uk/documents/localgovernment/pdf/3254461.pdf

²¹ ““Deloitte Review of the Financial Business Case supporting a bud for a Unitary Exeter (June 2007)” www.exeter.gov.uk/CHttpHandler.ashx?id=7203&p=0

²² “Invitation to all councils in England to submit proposals for unitary status” 26 October 2006 www.communities.gov.uk/publications/localgovernment/invitationall

arrangements: service delivery partnerships, contractual partnerships and shared procurement arrangements. The viability of many major services, such as those for children and young people and adult and community services, would depend on those arrangements. Far from opening the way for improvements to public services, a unitary authority for Exeter would jeopardise their provision.

20. The Secretary of State at no point sought views on the two new factors on which the decision was founded. The representations on which the Secretary of State and Minister based their statement that an unaffordable unitary authority for Exeter would be a “far more potent force for delivering positive economic outcomes” are unverified and have not been subject to consultation. If Devon County Council had been told that the Secretary of State was intending to consider these new issues, it would have made representations explaining why a unitary Exeter is not good for jobs and economic growth and is inconsistent with the Total Place approach.

Unintended and harmful consequences of creating a unitary authority for Exeter

21. Over 29,000 people commute into Exeter: this is 41% of the workforce, and 10,000 people commute to jobs outside the city. This compares with the net commuting to Plymouth of just 6%. It underlines the critical inter-dependency of Exeter and the rest of Devon identified by the Boundary Committee when it advised the Secretary of State against the creation of a separate unitary council in Exeter.

22. The future prosperity and growth of Exeter has, for a long time, been recognised as being dependant on development outside the city boundaries. The Devon Structure Plan therefore proposes significant growth outside the City, particularly to the east of the M5 motorway including a new community of at least 3,000 dwellings, a 30-hectare business park (Skypark), a 25-hectare Science Park, an inter-modal freight terminal, expansion of Exeter International Airport and a further 500 dwellings in East Devon.

23. The economic future and prosperity of neither Exeter nor Devon would be better served by separating Devon’s key population, business and education centre from the rest of the county. Exeter would be increasingly dependent upon its neighbours to create the business space and jobs to secure its employment growth, as is being done at present through the Exeter growth point to the east of the city. The future development of new knowledge-based employment opportunities will be centred on the Science Park and Skypark, both of which are out with the Exeter boundaries.

24. As part of the process which led to the establishment of the Torbay and Plymouth as unitary authorities in 1998, the independent Local Government Commission considered whether there should be a unitary authority for Exeter. It concluded that “*the interests of Exeter are inter-dependent with those of the rest of the county. The Commission remains convinced that Exeter’s centrality within Devon is of critical importance to the decision on structure, and it further believes that inter-dependence is a stronger principle than separation*” (Sir David Cooksey, Chairman of Local Government Commission, December 1995)

Inaccuracies in the estimates of costs and savings

25. The Explanatory Memorandum states (para 10.2) that the one-off cost of transition to unitary authorities in Exeter and Norwich are estimated to be in the order of £40m and that annual savings are, once these transition costs have been repaid, estimated at over £6million.

26. Exeter City Council’s proposal is not affordable: as at 2007 it would have a cumulative deficit of £2million at the end of five years and that excludes the £6.3million PFI costs unaccounted for in the proposal. The 2007 business case was vague and ambiguous about the extent to which the costs would draw on reserves and the sum which it would be necessary to borrow in order to finance the change. It made no attempt to

assess the costs falling on the county council. The remaining county council would achieve no additional economies as a result of a reduction in its sphere of operations and would not recover its transitional costs.

27. Exeter City Council's financial position has become significantly worse since 2007: it has, in setting its budget for 2010/11, had to make a £1million budget cut with the prospect of a further £1.8million cut due to losses resulting from the collapse of the Icelandic banks. Exeter City Council's reserves and balances have reduced significantly since its 2007 submission was prepared. Its projected level of reserves and balances at 31 March 2011 is only £3.2m this represents 29% of those available to it on 31 March 2008. This raises concerns about the capacity and resources of the City Council to plan and implement the transition to a unitary authority in a period of less than 12 months.

28. The October 2006 Invitation made it clear however that all costs incurred as a result of reorganisation must be met locally without increasing council tax. It also made it clear that 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." (para 3.4).

29. The "impact assessment" of the draft Order (pages 11 to 36 and Annex C of the Explanatory Memorandum) includes an analysis of costs and savings which shows, on page 13, a net cost of Exeter and Norwich of £1.6m over 6 years and a net saving of £42.4m for unitary Norfolk and Devon (page 16) over the same period. This represents a loss to the public purse of £44.0m if the current proposal is implemented. Not all of the monetarised costs of the 'main affected groups' are included on page 13 - the one off disaggregation costs of both Norfolk and Devon will have to be absorbed by the relinquishing authorities, and the ongoing diseconomies of scale which the residual authorities will need to bear on an ongoing basis (£3.2m pa for Devon), are not mentioned. The table on page 23 shows that Exeter and Norwich do not break even within 5 years, and that far larger savings in the period after year five rest with unitary Devon and Norfolk, not Exeter and Norwich. Annex C shows a similar pattern of savings with the larger savings resting with unitary Norfolk and Devon. A casual reader of the Explanatory Memorandum can be left in no doubt that greater savings would occur if Norfolk and Devon, rather than Exeter and Norwich, became unitaries.

30. The nine unitary authorities which were created in April 2009 cover the whole of the former two-tier county areas: Cornwall, Wiltshire, Shropshire, Northumberland and Durham, with two unitary authorities in both Cheshire and Bedfordshire. Although the Orders for some of those areas were controversial, they gave effect to the Government's policy objectives for the whole of the "affected area" and enabled the full benefits of the efficiencies gained by removing duplication to be shared. The draft Orders for Exeter and Norwich would, if confirmed, create the first unitary authorities in the current round which covered only a small proportion of affected area and failed to achieve the full financial potential.

31. If the draft Order is confirmed, the citizens of Exeter and Devon will face uncertainty over services, many of which support the most vulnerable members of the community. A combination of council tax increases and service reductions will be required in Exeter. The size of the proposed unitary council (with a population of only 123,500) combined with the wider affordability problems will make it difficult, if not impossible, to remedy the financial difficulties that it will inevitably face.

Conclusion

32. There can be no doubt that the draft Order is of political and legal importance and gives rise to issues which go to the heart of public policy-making. We therefore urge the

Committee to draw the draft Order to the special attention of the House where these issues can be debated.

22 February 2010

Item 6 - Submission from Devon County Labour Group

I am writing on behalf of Devon County Labour Group in response to your call for evidence with regard to the above draft order

1. The Devon County Labour Group is made up of four county councillors all representing Exeter City divisions. We have consistently supported the proposal by the City Council for the creation of a unitary council for the city of Exeter to replace the current two tier system introduced in 1974.

How the creation of a unitary council for Exeter will meet the government's objectives

2. We believe that the duplication of services in the city with two councils sharing responsibility is unhelpful and wasteful of resources and causes confusion to the public. A single council for Exeter should give better value for money.

3. It is increasingly clear that the city would benefit from a unified focus to deal with all aspects of strategic planning, transport, highways and economic development – all essential to ensure the continued success of Exeter's role as the focus of the sub-region's economy, and the Government's main objective in deciding to accept Exeter City Council's original proposal..

4. The County Council's rightful responsibility for a large, dispersed area of coastal and market towns, and rural settlements, prevents it giving priority to the city's development. Resources have to be diluted to meet widely differing needs with only Exeter being a concentrated urban area, quite different to the rest of the county.

5. In Devon's current cabinet only one of the nine members comes from Exeter, and it would be possible for the county council's decision making body to have no representative at all from the city, leaving no one to defend the city's interests.

6. The city is currently represented on the Region's strategic Leaders' Board by the leader of Devon County Council who lives just a few miles from Plymouth in the South Hams. It needs a leader from Exeter to speak up for the city's economic needs, and ensure its interests are promoted.

7. Having responsibility for all levels of learning and training, and working with Exeter (tertiary) College and the University of Exeter, would ensure a coherent approach to developing a high skilled workforce.

Reflection of local opinion in support of the proposal

8. There is very strong support from all sections of the residents of Exeter, the business community and all political parties on the City Council, for a restoration of local self-government. Currently most electors do not understand the two tier system and feel little relationship to the county council. A single authority will give clear public accountability,

We trust, therefore, that there will be no dissent from the House of Lords to the Government's draft order for Exeter.

18 February 2010

Item 7 - Submission from Leader of East Devon District Council

In response to the call for evidence I would wish to take the opportunity of submitting the following observations which relate to the proposed Exeter and Devon order.

I am writing in my capacity as the Leader of East Devon District Council (the most populous district council in Devon). East Devon shares a common border with Exeter and as will be seen in subsequent paragraphs, my district provides the 'land bank' for Exeter. Consequently much of Exeter's ability to act as a potent force for delivering positive economic outcomes can only occur through active partnership with my Council and an acknowledged reliance on East Devon's land.

In addressing the points that the Committee has raised I would make the following comments:

Preliminary; in assessing the merits of the proposed statutory instrument it is an important consideration that whilst the current Government has a policy objective of promoting unitary local government there is no statutory or legal presumption that favours unitary local government over two tier local government. Accordingly I would submit to the Committee that the case for change has to be persuasive. It is a point of note that the existing structure of local government in Devon is working very well; there is little public support or appetite for the change that is being recommended; and the case for change still needs to be properly made.

How it is anticipated that an Exeter Unitary will work in practice; our experience in Devon has been that the unitary councils, divorced from their rural hinterlands, have struggled to thrive. Whilst recognising that both Plymouth and Torbay represent areas of greater deprivation than Exeter, it is apparent to most observers that the promotion of economic growth requires sufficient land availability to facilitate expansion. As with Plymouth and Torbay, the tight boundary of a unitary Exeter would impose significant constraints on its ability to work effectively, particularly because its early years as a unitary would be taken up with problems of integrating new service areas and adapting to internal challenges.

I strongly support the Total Place approach which opens up the possibility of reversing the years of fragmented service delivery through multiple agencies and in the process deliver substantial cost efficiencies and savings. However I struggle to understand how a unitary Exeter could open the way for improvements to the quality of public services, which in a Devon context are already performing to a high level (recently confirmed in the Devon wide Comprehensive Area Assessment). The Government refers to 'innovative shared services and partnership arrangements' but these appear to be extremely speculative. They are also very much dependent on the assumption that any residual impact on Devon County Council is not so dramatic as to impede its ability to deliver services such as adult social care and children's services effectively. Whilst undoubtedly there are issues that need to be specifically addressed to the needs of the Exeter urban area the existing Exeter City Council already has the legal and organisational capacity that is required.

How likely an Exeter Unitary is to achieve the Government's objectives: the Government confirms that its 'priorities today are above all for jobs and economic growth'. I would most certainly concur with this and the acknowledgement that local government has an essential role to play in delivering these economic priorities. Where I would beg to differ however is the suggestion that 'this role is of a significance that could not be contemplated in 2006 when the criteria were developed'. It is a matter of record that even before 2006 local government in Devon was strongly focused on jobs and economic growth (witness, for example, the relocation of the Met Office and the expansion of Exeter Airport's industrial base).

The statement that a unitary Exeter would have a greater ability to 'be a far more potent force for delivering positive economic outcomes both for the city and more widely than the status quo two-tier local government' cannot go unchallenged.

Exeter's boundaries are tightly constrained. Exeter's economy is a success story but the suggestion that it has been achieved despite two-tier local government is nonsense. The city's current and likely success has been built on, and will continue to be built on a partnership of the City Council, the County Council and my Council. There are particular strengths that derive from this. By contrast, successive administrations in Exeter have always struggled to accept the wider role that the city needs to play; they have been introverted, paralysed by the 3 year cycle of annual elections, and obsessed with a perceived difference between 'town' and 'country'. The likelihood is that unitary status for Exeter will only exaggerate these traits to the detriment of the wider economic area.

If it is accepted that the economic realities of an area are a significant factor in strategic leadership then it must be of concern that the proposed unitary Exeter would not match the existing economic reality. Exeter has an extensive travel to work area but more especially much of the economic success upon which Exeter seeks to rely can only occur through the use of East Devon land. Whether it be the expansion of employment opportunities at Exeter Airport through the many successful industries that are located there, the proposed new Science Park, the inter-modal rail/freight terminal, the new Business Park or the new community of Cranbrook (proposed to be the first ever zero carbon development) all is dependent on ongoing co-operation with my Council. As the Highway Authority outside Exeter will continue be the County Council the existing partnership imperative will continue.

Whether sufficient time is allowed to implement the changes: I have no comment to make on this point. If the matter goes forward it should be completed as expeditiously as possible. I do question however the proposal that elections to the new unitary should continue to be by thirds. This appears to go against government objective and will not ensure strong political leadership of any new unitary council.

Whether the estimates of costs and benefits is accurate: this is an area of particular concern and the somewhat woeful work of the Boundary Committee has only compounded the affordability problems of a unitary Exeter.

Hitherto the Government's requirement has been that actual affordability needs to be assessed, not a proposed change based on theoretical assumptions. In terms of the papers and workings I have seen actual affordability remains to be proven. From the point of view of a resident of Exeter he or she has no idea whether Council Tax is likely to increase, and if so by how much, if a unitary Exeter is imposed.

So far as I am aware the estimate of costs and benefits relies heavily on draft budgetary estimates for the 07/08 financial year (probably prepared in November 2006). In other words the case for a unitary Exeter is based on financial data which is considerably out of date. It is noteworthy that even the Boundary Committee's own independent financial consultants advised the Government to carry out a fresh assessment. I have seen no evidence to date that this has been done. As matters stand therefore the estimate of costs and benefits is certainly not accurate; rather it is old, out of date, not reflective of the current financial position and purely theoretical.

Whether the 'outcome of consultation' accurately represents the various views: I would acknowledge that within Exeter itself there was certainly more support for a unitary Exeter than a unitary Devon. However, bearing in mind the point made above, that there is no statutory or legal presumption in favour of unitary, a key unanswered question is the prevailing support for the current successful system to continue. Neither Exeter nor the

County Council sought to establish such views, mainly because they were both aggressively pursuing their unitary ambitions at the time.

My Council was the only one in Devon that sought to canvass the views of all households, (although North Devon District Council did a MORI poll which achieved similar results). In particular my Council sought to provide balanced information and the opportunity for a clear expression of opinion to be made. An information leaflet and pre-paid postcard was sent to all households in East Devon on 30 April 2009 asking for a reply by 11 May 2009. Each household was able to express its preference either for a two unitary proposal (a Greater Exeter and a residual County - subsequently rejected by the Boundary Committee), a single unitary County or for the 'integrated Devon' proposal that the County Council and seven of the District Councils originally supported. The returns were as follows:

Two Unitary Proposal - 659 households expressed a preference for this option

Single Unitary Proposal - 909 households expressed a preference for this option

Integrated Devon - 10,015 households expressed a preference for this option

Bearing in mind the now radically worse state of central government finances, the strongest view is that of wishing to continue to deliver high quality local services without a costly and unwarranted disruption through unitary restructuring.

Whether the changes might give rise to unintended consequences: my biggest fear is that the experience of Plymouth and Torbay will be replicated with a unitary Exeter. At a time of considerable economic challenge re-structuring is an unnecessary distraction which will only divert the energy and resource that is required to protect and empower our local communities in these difficult times.

Thank you for this opportunity to present evidence to the Merits Committee. If any further comment or assistance is required please let me know.

Cllr Sara Randall Johnson

22 February 2010

Item 8 - Submission from the Exeter Chamber of Commerce & Industry

Exeter has a very dynamic economy and although it may be seen from outside simply as a County town, and at heart, one of the South West's tourist attractions, it is in fact a fast growing economy that is destined to overtake Plymouth within the next few years in terms of its scale and economic value. Just to underline its growth in the last decade, the City provided 68,000 jobs in 1998 and this has risen to 86,000 by 2006. This was the third highest rate of growth in the country.

Having worked closely with the City Council over the whole of that period, I can unequivocally say that the leadership displayed by the City Council has been at the root of the success of the Exeter economy. This has enabled businesses to be able to make their expansion plans with confidence, knowing that the Council has a proactive approach to growth and development

It was the City Council that led on the relocation of the Met Office from Bracknell to Exeter back in 2000 and this is what kick started the dramatic growth in the City's economy. The City Council also led on the regeneration of Exeter's historic city centre and had the confidence to deal with a complex regeneration scheme, which has anchored the city centre for the next decade and beyond.

Businesses always face the challenge of dealing with bureaucracy and, from our end of the telescope, the simpler the system, the more likely we are to take positive investment

decisions and to keep our costs under control. The structure of local government in two tier areas has been both an irritant and, at times, an obstacle to progress. Major investment projects simply take longer to deliver because two separately accountable authorities have overlapping responsibilities for planning and transport. We also work closely with the City Council's Economic Development function, but of course the delivery of the Education function sits with the County. From our perspective, therefore, a single area of accountability is critical which is the reason we have throughout the review process, strongly supported the concept of a unitary Exeter.

One further element which concerns us about the current arrangements is the confusion of messages around the image of Exeter and the marketing messages and nationally. Because the County Council is essentially a rural focused body, its promotional emphasis is very much on rural issues and the growth of the City of Exeter this is wholly the wrong message and we are dynamism of the City's economy fails to be adequately presented to the region and to the country. That in itself is potentially a major drag on further growth prospects.

Their Lordships would doubtless be concerned that taking Exeter out of Devon is somehow building a wall around the City. There is no evidence from the unitary authorities which were created across the country in the 1990s that this has happened. What it has brought is a proper focus on urban issues and yet maintained collaborative working where it is necessary and appropriate for cross boundary issues. One only has to look at the successes of York and North Yorkshire to recognise that such change can be mutually beneficial rather than being emotively viewed as "ripping the heart out of the County". York plans its long term strategies in conjunction with North Yorkshire and with the Leeds conurbation but still has a single, unified focus within the City.

Exeter's track record on collaborative working with a very wide range of partners (including the County Council) across its somewhat artificial boundaries is testament to the City's pragmatism. A new unitary Exeter will give the focus that is needed on urban economic issues and still leave intact its collaborative arrangements.

February 2010

Item 9 - Submission from Exeter City Council

We are pleased to respond to the Committee's Call for Evidence. Over the last four years we have compiled an extensive portfolio of documentation and evidence to secure a unitary council for Exeter. This includes objective analysis and evidence from the Institute of Local Government Studies (Inlogov) at the University of Birmingham, the Centre for Urban and Regional Development Studies (CURDS) at Newcastle University, Ipsos Mori, Deloitte, The European Institute for Urban Affairs at Liverpool John Moores University, Local Government Futures and Anite. That evidence relates in part to the six specific issues on which the Committee is seeking evidence. We do not propose representing all of our evidence in this response but, for the Committee's benefit, we have included a chronology of our submissions and supporting evidence at Annex A.

A. How is it anticipated that a unitary Exeter will work in practice?

In January 2007, we submitted a detailed business case explaining what the governance arrangements in a unitary Exeter will be and how the council will be organised to provide value-for-money, joined-up services. A unitary Exeter will function like every other new unitary, as a single organisation focusing on urban needs and delivering results like York, Blackburn, Hartlepool etc, which became unitary authorities in the mid 1990s.

In a unitary Exeter the governance of the city will be streamlined, linking residents, communities and the Council, and our partners in the Exeter Vision Partnership (local

strategic partnership), providing more opportunities to influence decision-making, scrutiny processes and service design.

We have invested significant resources in designing a modern fit-for-purpose unitary council. This draws on best practice from high-performing unitary councils across the country, views of stakeholders and advice from experts in Adult Social Care and Children's Services.

B. How likely is a unitary Exeter to achieve the Government's objectives?

Strong, effective and accountable strategic leadership

For a key regional city like Exeter, it is imperative that responsibility is vested in one visible, accessible political leader who is both equipped to take strategic decisions and, in exercising a wider community leadership role, capable of extending his or her influence over a broader range of public services and enhancing the opportunities for political engagement.

A unitary Exeter will deliver jobs, economic growth and prosperity at a time when the country needs them most. We have provided substantial evidence to demonstrate the advantages that a unitary Exeter offers in terms of strong and effective economic leadership. The status of Exeter has been articulated by the South West Regional Assembly as a "major Regional Centre for employment, retail services and culture". The Regional Economic Strategy shows that the economic significance of Exeter considerably exceeds Torbay and currently lies third in the region, while by 2026 the economic 'footprint' of Exeter and Plymouth will be similar. This belies references to the county town and distorts the role that the city plays with partners inside and outside the city. To ensure that Exeter maintains its role as a dynamic and influential player in the region it is critical that its leadership and key partners do not become embroiled in debates about rural-urban priorities, or weighed down by the bureaucracy of competing policy emphases which reflect the very different needs of Exeter and the rest of rural Devon. Exeter needs to be on the same footing as cities like York, Portsmouth, Brighton and Bath if it is to continue to prosper in an increasingly competitive and global economy.

Partner and stakeholder support

There has always been a high level of cross-sector support for a unitary Exeter and the confidence that a unitary Exeter will deliver the outcomes set out in the Government's invitation. Strong support for the case has been expressed by the University of Exeter, the Exeter Chamber of Commerce (representing the interests of over 400 Exeter businesses), the voluntary sector and the Chair of the Exeter Vision Partnership (local strategic partnership).

Independent research by Ipsos Mori shows that, of those who express a view, Exeter residents favour the principle of single-tier local government in the city by a margin of two to one. Furthermore, around three times more residents felt that duplication would reduce, and efficiency and accountability would improve, if a unitary Exeter were to be introduced.

The case is supported by a massive majority of our elected members, across all four political parties represented on the City Council. On 15th December 2009, the City Council overwhelmingly agreed (by 31 votes to 2) to call on the Secretary of State to accept Exeter City Council's original proposal for unitary status on its existing boundaries.

Neighbourhood flexibility and empowerment

Around 20 residents associations and community associations and around 80 community organisations are all vital components of Exeter's existing community governance infrastructure and key players in the city's "My Neighbourhood Pact" scheme. The

scheme, which is currently being introduced across the city, brings together city councillors, residents and the Neighbourhood Policing teams as part of the Partners and Communities Together (PACT) work to make a difference in local neighbourhoods. The aim of the project is to identify priority issues and ensure these are followed up by the appropriate authority. Local people are encouraged and supported to be more actively involved in their community. We look forward to being able to extend this across all services, city-wide in a unitary Exeter.

Affordability

Our financial case is set out in full in our business case and financial framework. In line with the criteria set out in the Government's Invitation:

A unitary Exeter will deliver value for money, releasing significant savings for investment in service transformation;

Savings are to be used to deliver service transformation, a programme already initiated, and to maintain a low Council Tax in each year. Other (i.e. revenue) transitional costs will be financed through a combination of in-year revenue savings arising as a result of restructuring, and other in-year specified revenue savings that are additional to annual efficiencies (e.g. Gershon savings), drawing on available revenue reserves which are replenished from savings after the first two years;

The City Council has a strong record of delivering huge budget savings in difficult circumstances and this will stand it in good stead to adapt to unitary status. The city has the 4th lowest level of Council Tax for a district council;

Plymouth and Torbay Councils (both unitaries) have lower aggregate Council Tax than other districts in Devon and there is no reason why Exeter should be different.

Value for money and equity in public service

Other new unitary authorities have taken advantage of the unique opportunity that the bringing together of services through unitary status and broader organisational change offers. Our research, evidence and expert opinion all indicate that this is an unparalleled opportunity for improvements in service delivery and ongoing attainment of efficiency gains. We would point to our extensive research and evidence that endorse the expected outcomes for each service in a unitary Exeter and the fact that there are high-performing unitary councils that are smaller than, or similar in size to, a unitary Exeter. Partner and stakeholder confidence in a unitary Exeter offers further reassurance, as do the views of residents.

C. Is sufficient time allowed to implement the changes?

The ongoing uncertainty created by judicial reviews and the parliamentary process are inevitably constricting the time available to Devon County and Exeter City Councils to effect the transition. However, both authorities have been involved in earlier meetings of implementation teams and a project plan is in place. Other unitary councils have faced similar, tight timescales but have succeeded in creating new councils by the deadline. We are confident that the Implementation Executive will function effectively as a vehicle to ensure the effective, efficient and timely transfer to Exeter City Council of the County Council's functions, property, rights and liabilities so far as they relate to Exeter.

D. Are the estimates of costs and benefits accurate?

The financial framework has been independently validated by Deloitte, who verify that the estimation of costs arising from potential reorganisation is reasonable and the financial case reflects the proposals outlined in the Council's business case. In relation to wider benefits we would point to the extensive evidence from independent experts that we have accumulated.

E. Does the ‘outcome of consultation’ accurately represent the various views?

Please refer to our response on partner and stakeholder support under Heading B above.

F. Might the changes give rise to unintended consequences?

Arguments about an appropriate population size for a unitary council are raised consistently by opponents, but research about size and performance provide no evidence to support the commonly cited presumption that ‘larger is better’ and emphasise the critical point that local context should be the overriding factor.

Exeter governed itself from 1200 to 1974, providing all services for the city. The creation of a unitary Exeter authority does not undermine the historic status of Exeter as the County town of Devon, nor does it ‘rip the heart out of Devon’. On the contrary we believe it will strengthen the heart of Devon. Nobody would claim that the historic and civic status of Derbyshire, Nottinghamshire, Leicestershire and North Yorkshire has been seriously undermined by virtue of unitary status for their county towns. Equally questionable, as our research shows is the argument that the centrality of Exeter to Devon demands that it is included within the Devon County Council area. Evidence from elsewhere in the country does not suggest that the creation of an urban unitary authority in a wider, largely rural, local government context is to the administrative and/or economic detriment of that rural community: North Yorkshire/City of York; Derbyshire/Derby; Shropshire/Telford and Wrekin; Wiltshire/Swindon.

We have compiled a detailed risk register of the risks of transition to a unitary Exeter and explained why a unitary Exeter will have sufficient capacity, how it will deliver large budget services e.g. social care and children and young people’s services, how economies of scale will not be lost, how there will be scope for administrative savings, and how it will take a strategic approach on overarching issues.

In conclusion, a unitary council for Exeter will provide a transparent system of governance that ensures accountability, participation, a dedicated focus on the city’s complex urban challenges and drives more modern, integrated services. A unitary Exeter has overwhelming public support and the support of all major political parties in the city.

22 February 2010

Item 10 - Submission from Jim Harle

The local press reports that, “Plans for Exeter to become a unitary authority are to be scrutinised by the House of Lords.” We are further informed that, “The Lords’ Merits Committee has appealed for evidence from people as to whether they believe the plans would meet government objectives on unitary councils and whether the new status would achieve the intended outcomes.”

I am appalled by distortions and violations of democracy swept under the carpet by Exeter City Council, and by the way Councillors and Officers are presenting the citizens of Exeter as if they favoured the change to a unitary authority. The City Council gathered card and web support for the extension of its powers. At the same time, it failed to register any other option, discounting anyone with a viewpoint differing from its own. I firmly believe maintenance of the status quo to be the favoured option of the majority of informed Exeter citizens outside the Civic Centre.

For the last four years, friends and I have been trying to uncover the root causes of the unworthy decision by the City Council to ‘constructively evict’ (our term) long established children’s leisure facilities from our area of Exeter, greatly to the detriment of community and its young people. The despicable manner in which this deprivation was achieved reveals an inability to make suitable provision for youngsters’ leisure. To extend the

powers of those responsible hardly benefits citizens. My www.summerway.org website, backed up by extensive documentary evidence, indicates the depth of the problem we face.

I stress that I am not a person with a bee in his bonnet. Quite simply, I have had the manner in which democracy has degenerated thrust upon me, and am vigorously campaigning for a marked increase in integrity. Please excuse the sense of humour which sometimes overtakes me, e.g. in my Heavitree Arch video on YouTube. This mustn't be allowed to detract from the serious nature of the message I am trying to convey.

My concerns for democracy include the Boundary Committee, which failed to read my submissions. I have communicated displeasure appropriately at this failure, including writing to the Prime Minister, copying the letter to the Leaders of the other two major political parties. For details, www.sumcam.co.uk points to appropriate web pages.

I am amused by the thought as to whether plans would meet government objectives. Government objectives, both local and national, are goalposts constantly on the move to suit whatever decisions government currently wishes to make. Sadly, the motives for these seem extremely dubious to many of the electorate. It is hard to avoid the conclusion that the 'representatives' we elect represent government to the people, and not people to the government.

In the case of Exeter, the Boundary Committee's advice for a unitary Devon was not what government wished to hear, so the Minister for Local Government decided to move the goalposts to disregard affordability and make a perverse decision. Help!! We live here.

If the intended outcome of the new status is to benefit councillors and officers, it should succeed. It is difficult to imagine how unitary status could possibly benefit citizens, now or in the longer term. We need a City Council which stops shouting about democracy, and practises it instead.

Please don't believe all you hear about the wishes of Exeter citizens for unitary status without obtaining unbiased evidence. Even the CLG 'Summary of Responses' document shows 56% broadly in favour of maintaining the status quo in Devon, and it wasn't even allowed as an option!

Guidance on your website pages as to how the public ought to address the Lords' Merits Committee would be welcome. I apologise for any inadvertent offence my approach may cause. I am sending this to you as Chairman of the Committee, requesting that you examine it and share it with the other Committee members. Thank you for your time and interest.

17 February 2010

Item 11 - Submission from Cllr Yolanda Henson, Conservative Group Leader

In one of the greatest political statements ever spoken, Abraham Lincoln praised the virtues of Government "Of the people, by the people and for the people". That is what precisely what the restoration of unitary local government is promising for the people of Exeter.

It is therefore excellent news that Exeter is to regain its status as a completely self-governing city, along with the other great historical regional capitals of England. It is entirely appropriate that appropriate that the decisions made on behalf of its citizens reflect the distinct preferences of those citizens, rather than those of a much wider, mostly rural, electorate.

The present two-tier system, which has existed for 37 years (a drop in the ocean when compared to Exeter's 800 years of self rule before 1972) cannot achieve the same level of democratic accountability. Many important decisions affecting our citizens are currently made at County level. There are 62 County Councillors, of which only 9 are elected for Exeter seats and the decision taking Cabinet has 10 County Councillors, of which only one is elected from the citizens of Exeter. It is simply not possible for those who are making decisions to even know, let alone satisfy, the wishes of Oxonians.

An independent Exeter, with its own Government, elected by and in touch with its own people can make such decisions much more successfully. The City's voters will enjoy a much clearer idea of where responsibility lies, and who to go for help and advice. A single-tier authority will cost less in the long run (there will be nine fewer councillors for a start) and enable the new Council to focus on generating the prosperity which will benefit both Exeter and the surrounding County of Devon.

Much has been said about 'team experience' in being able to run a modern unitary authority. The present group of businessmen and women have a variety of professional skills. The obstructive views have questioned their integrity and professional reputations. We will work with those people and their skills, and added to my 28 years as a City Councillor, and with the Chief Executive and Partnerships to create and foster a successful unitary authority.

February 2010

Item 12 - Submission from NHS Devon

NHS Devon supported the earlier proposal for a single unitary authority for Devon. The central argument behind this position was simple: the more that is spent on organisational structures, boundaries and processes between the NHS and local government in Devon, the less is available to spend on taking care of the population.

The National Health Service restructured in 2006 to bring about major improvements in the way services are commissioned. Small commissioning PCTs in England, which had struggled to bring about change to established patterns of commissioning, were merged to create much larger, strategic commissioning PCTs serving larger populations. The role of these new PCTs is to dramatically transform the way services are commissioned to deliver better health and wellbeing for all, better care for all and better value for all. By taking a strategic and long-term approach to commissioning, the aim is to shift the focus of care from diagnosis and treatment to prevention and wellbeing.

In Devon (excluding Torbay and Plymouth), where previously there had been six PCTs roughly aligned to the district council boundaries, one new strategic commissioning PCT was formed: Devon PCT, now known as NHS Devon. It is coterminous with Devon County Council and has an annual budget of over one billion pounds (roughly equivalent to £2.9 million per day) to meet the health needs of the 750,000 people who live in Devon.

NHS Devon and Devon County Council appointed a Joint Director of Public Health and in 2007 carried out a joint strategic needs assessment. For the first time in Devon, information from many sources held by public sector bodies has been brought together to create health and social care profiles of the main 28 market and coastal towns in Devon and Exeter²³. This work is crucial in underpinning the work of partnerships locally, and is

²³ available online www.devon.gov.uk/JSNAprofiles

used by the Health and Wellbeing Partnership to steer the strategic commissioning of services for the population, through the Local Area Agreement. The Local Area Agreement is a set of strategic objectives agreed by partner agencies (for example the NHS, local authorities, the police and probation services) to deliver improvements in a number of specific areas for example health, crime and disorder, and environment.

From the work to assess need in Devon the top public health priorities for the county population, especially in tackling inequalities in health have been identified as:

- Smoking and tobacco control
- Obesity (in both children and adults)
- Cardiovascular disease, cancer, chronic obstructive pulmonary disease and diabetes diagnosis, prevention and treatment
- Alcohol and drugs misuse
- Sexual health
- Health of children (from conception through early years and school age to adulthood)
- Prevention of falls and treatment of hip fractures
- Promotion of mental health and wellbeing and prevention of suicide
- Health of those in the criminal justice system
- Prevention of transmissible infections, including hospital acquired infection
- Health of those in socio-economically deprived communities
- Promotion of effective joint working to tackle socio-economic deprivation and thus one of the major causes of ill health and health inequality

In 2008, NHS Devon and Devon County Council undertook a joint strategic review of the health needs of the population and the way health and social care are used. The review looked at best practice locally and nationally and, most importantly, listened to people across Devon - people who use the services, carers, colleagues in voluntary organisations, clinicians, staff and many others. NHS Devon and Devon County Council now have a clear picture of priorities for Devon and have built this into a strategic framework for the county, 'The Way Ahead'²⁴ which in turn has been translated into a five year strategic plan for health and social care in Devon.

The purpose of our setting out these examples is to illustrate the benefits of scale. Assessing need across the county of Devon as a whole, rather than within the patchwork of arbitrary PCT boundaries enables the more targeted and effective use of public resources. Partnerships and joint working are liberated from the costly and often disabling effects of duplicated efforts and decision making across a multiplicity of small NHS commissioners. Having joined up the local NHS into one powerful county-wide commissioner for Devon it would be a retrograde, demoralising, and costly step to find that its strategic partnership with local government needed to be exercised through two unitary authorities rather than one, coterminous authority. This prospect would see NHS Devon spending some of its scarce resources at least twice over to meet its statutory duties of partnership with local authorities. The measures introduced in the last year to strengthen Children's Trusts and to reinforce the statutory duty to co-operate among key

²⁴ Available online http://www.devon.gov.uk/the_way_ahead_v3.pdf

local provider agencies will, if anything, have accentuated the administrative cost of such an adjustment. The prospect of severely squeezed public sector finances facing the whole country over the next 3-5 years make such a cost sharply less affordable than they would have been even when the unitary Exeter model was first rejected by Ministers on grounds of cost. (This appears relevant to your second term of reference, *viz* that this instrument may be inappropriate in view of changed circumstances).

In similar vein, NHS Devon and Devon County Council have established a partly integrated health and social care service, and progress is continuing. A Joint Director of Health & Social Care Delivery is in place and complex care teams (CCTs) of health and social care staff have been established. Their remit is to focus on people with complex and long-term conditions. These service users are often struggling in the community, reliant on family carers to get by. Consequently, people in these circumstances make frequent demands on GPs, social services, respite care and unplanned hospital admission. The complex care teams are linked to clusters of GPs and combine the strengths of practice-based commissioning with social care commissioning. The real strength of the teams is in the partnership of health and social care frontline staff, and in the principle of promoting individualised care. For NHS Devon the prospect of two unitary authorities with social care responsibilities in Devon raises the issue of complex, costly, multiple integration.

From a health perspective the issue of local knowledge and responsiveness in the context of a very large organisation is important. The PCT has therefore, jointly with the County Council, focussed on natural communities based on the 28 market and coastal towns in Devon and Exeter. There is not a special case in terms of health and wellbeing for Exeter to be annexed off from the rest of the county. To characterise Exeter as urban and the rest of the county as rural is a misleading, oversimplification of what is actually a very complex and mixed pattern of health need and inequalities across the county as a whole. A stark illustration of this fact is that today there is a gap of up to 18 years in life expectancy from birth between different communities in Devon.

NHS Devon has the experience and advantage of having merged six organisations into one and can provide clear evidence of how this enables strategic commissioning and better use of resources without losing local knowledge and responsiveness. The transition itself, however, was disruptive and – like any organisational change – tended to distract attention from the “front-line” services, such that services were perceived as temporarily stagnating before improvements have become apparent. Disruption to achieve economies of scale in times of public resource scarcity can, with difficulty, be justified to the public. Disruption caused by a move in the opposite direction, and the inevitable loss of economies of scale, appear indefensible.

NHS Devon, will, of course, work with whatever local government structure emerges over the next few weeks and months.

22 February 2010

Item 13 - Submission from Adrian Sanders MP

Thank you for the opportunity to submit evidence on these proposals.

The proposals for a unitary Exeter authority raise considerable concerns over the viability of such a small authority, the cost effectiveness of the boundary review process and the response to the views of the public, as expressed in the consultation exercise.

The experience of Torbay unitary authority highlights the range of problems in creating small unitaries; there is a lack of economies of scale, top heavy and expensive management structures and problems in delivering services that interact with the hinterland and the boundaries of other agencies such as the police and health service. I can envisage Exeter

and the surrounding area experiencing all of these problems in the coming years. Torbay as a small council also suffers from a lack of political stability with landslides from alternate parties at each election.

Primarily the response from the public in Devon was for the status quo to remain. There was also a strong desire for changes to Plymouth and Torbay to be considered, to rectify long standing problems with the structure of those unitary authorities. I feel that the review, which refused to even consider changes to Torbay's boundaries, has missed an opportunity to create viable unitary authorities in Devon, namely three same sized unitaries based on a sensible mix of urban and rural communities that can benefit from economies of scale.

Overall, from the perspective of Torbay, the review has been an expensive and indecisive process, one that has totally ignored any representations put forward by Torbay residents and organisations.

February 2010

Item 14 - Submission from South Hams District Council

South Hams District Council has responded at all consultative stages of the local government review in Devon expressing views that have been informed through a wide community engagement in the locality. The comments in this document are consistent with the views previously expressed by the Council throughout the review process.

The views submitted are in accordance with the questions raised in the call for evidence request. The comments are based on a concern that the proposed change will have an adverse impact on the residents of South Hams.

How it is anticipated that these Unitary Authorities will work in practice?

The creation of a new Unitary Council in Exeter will have short and long term impacts on the South Hams.

To meet the timescale the new authority will have to come in to effect under the guidance of an Implementation Executive. This body will have to be quickly convened and its governance arrangements rapidly resolved to enable it to commence work on transition and implementation. Timescales for commencement by April 2011 therefore seem challenging. During this period the focus of Devon County Council will be diverted from working with South Hams District Council to deliver services in our area. The scale of the impact on the local area should not be underestimated. The original Exeter bid contained that council's aspirations for running upper tier services in a City unitary and was based on assessments at 2007 prices. The nature of the demand on services, relative priorities for local government, as well as financial arrangements within affected Councils, have inevitably changed in the interim as a consequence of the global recession. Implementing change will be very challenging alongside running normal operations in a foreshortened transitional period. The process of transition in other areas (e.g. Cornwall) had a longer run in, but there have still been problems and the process of actual transition has still to begin in many service areas.

New relationships will need to be quickly formed during transition with partner organisations and stakeholders, especially those with a Devon wide or peninsula deployment. A number of those agencies have opposed the Exeter/Exmouth based unitary considered by the Boundary Committee, asserting that it would make their operations more complicated. There is a real risk that the performance and quality of services provided by such agencies to the public in South Hams will deteriorate during the process of transition as the focus of strategic organisations is diverted. This could last for an

extended period with no guarantee of any sustained improvement in the quality of future service provision in the South Hams area, due to inadequate assessments of potential impacts and clarity about the costs. There is a risk that the costs of upper tier services in South Hams will increase significantly as the costs will have to be spread across a smaller tax base and population.

How likely they are to achieve the Government's objectives

The Council strongly supports the retention of the existing pattern of local government in South Hams and across wider Devon and believes that this is the most effective way of delivering the originally established objectives. However the recent announcement suggests that the Government's objectives appear to have changed. The justification for setting aside the 'affordability' criterion relates to a new objective to create an authority which is able to drive the economic growth of Exeter. While this objective may not impact directly on South Hams, it should be noted that much of Exeter's potential future growth will be outside of the proposed unitary boundaries.

The original criterion of 'Value for Money and Equity' is also unlikely to be achieved, both as a consequence of inadequate modelling of costs and real savings that might be achieved, but also because of the impact on the future financing of upper tier services in the rest of rural Devon.

Whether sufficient time is allowed to implement the changes

Based on the lead in periods for other recently created unitary councils, an eleven month transitional period will be fraught with risks, especially as the financial modelling of the arrangement is based on information which is out of date. The modelling of costs and savings has not been updated or verified to reflect recent changes in the national economy and the state of local government finance. Again, this could have a future adverse impact on upper tier service provision in South Hams.

Whether the estimates of costs and benefits are accurate

The Boundary Committee's Independent Financial Consultants used data from the 2007/08 estimates to undertake their financial modelling and this was used to support the Committee's final recommendations. The IFC qualified their final advice to the Boundary Committee asserting that it and subsequently ministers also, must satisfy themselves that the financial circumstances of the affected authorities was properly updated before reaching any decisions for change. In the absence of such an exercise in relation to the Minister's proposal, there must remain questions about whether the costs of implementing this decision will adversely affect the quality of future service provision in the South Hams.

Whether the outcome of consultation accurately represents various views

DCLG advised in December 2009 that in launching a period of Parliamentary consultation, the previous views of respondents to earlier rounds of consultation under the Boundary Committee's process would be taken in to account in reaching a decision. In publishing the summary of representations received on 10 February 2010, DCLG has only focussed on those representations made direct to the Department since last December. However, responses published on the Boundary Committee's website up to the final report stage showed 67.2% of over 6500 respondents rejected all unitary proposals. Only 11.8% supported a Greater Exeter and Exmouth and 15.4% the single Devon unitary. The majority view of stakeholders across Devon therefore mirror the views of this Council that the existing pattern of local government should be retained.

Whether the changes might give rise to unintended consequences

The Council is concerned that there will be unintended consequences for our area if the re-organisation proceeds.

As already stated, there is a high probability of an increase in the cost of upper tier services in rural Devon as a result of the reduction in tax base. Providing services in rural areas is comparatively more costly and this will have a greater impact in an area such as South Hams as the costs of highways' maintenance, waste disposal, social care and children's services will fall on a smaller population in a very large sparsely populated county. Devon is the third largest county in England and will still be very large if the city unitary is confirmed.

The Government's decision states that ministers expect to see collaborative arrangements being established between the relevant authorities in order to achieve the objectives. However there has been no drive throughout the review process to assess potential areas of collaboration by the sharing of services, which this Council believes is the way forward. Indeed this Council, with West Devon Borough Council, has pioneered shared services at a national level, delivering improved services for our residents and achieving significant savings without the need for expensive and risky major structural change.

Conclusion

In the absence of a clear case for reorganisation within Devon, this Council strongly believes in the retention of the status quo. This would enable the authorities in Devon to work together to improve services and reduce costs through a range of shared service arrangements developed to respond to local need. Considerable progress had been made prior to the diversion of local government reorganisation and costs would have continued to be reduced without recourse to disruptive change.

18 February 2010

Item 15 - Submission from Gary Streeter MP

I see this as an overtly political move and deeply to be regretted. I have lived in Devon since I was 3 and it seems inconceivable to have a Devon authority without its county town. It will have no natural centre. I cannot see that Exeter on its own can possibly be viable. Torbay unitary, much bigger, is still struggling. I worry about the cost to the tax payers and the motives of the government.

February 2010

Item 16 - Submission from Hugo Swire MP

I am writing to you in my capacity as Member of Parliament for East Devon. I would like it to be known that I strongly oppose the proposal for a single tier of local government for the city of Exeter.

This proposal does not meet the affordability criterion as set out by the Department for Communities and Local Government, and will not only require further central Government funding (as has been pointed out by the Labour Group leader on Devon County Council, Cllr Saxon Spence, during a Devon County Council Cabinet Meeting on 13 January) but will adversely affect the rest of Devon.

The three main risks associated with this proposal that I would particularly like to highlight:

- It will not deliver value for money - in confirming the decision through a Written Ministerial Statement on 10th February 2010, the Rt. Hon. Rosie Winterton MP

admitted that Government concerns raised two years ago about “financial risks” remained.

- It will result in court action – Devon County Council instituted legal proceedings against the Secretary of State on Monday 15th February.
- It will jeopardise the workings, efficiency and effectiveness of Devon as a whole.

At this point I also feel that it is necessary to mention and draw attention to the fact that Peter Housden, Permanent Secretary at the Communities and Local Government Department, has exchanged correspondence with the Secretary of State, Rt. Hon. John Denham MP in which he expressed his concerns about both the value for money and feasibility of this proposal. He also added that he had had “clear legal advice” that the risk of the schemes being “successfully challenged” in the courts “is very high”.

As to ***how it is anticipated that an Exeter Unitary will work in practice*** I feel that it is of great importance to draw the Committee’s attention to Paragraph 5.5 in Advice to the Secretary of State on unitary local government in Devon by the Boundary Committee, in December 2009 where it was found that “were Exeter alone to become a unitary authority on its existing boundaries, and the remaining area of the county to stay two-tier, there would be serious questions over the ability of the two-tier area to function effectively as a unit of local government”.

It is an integral part of understanding the dynamics of Devon that Exeter, its capital city, is a fundamental part of Devon without which neither can function effectively. If this draft statutory instrument were to be implemented separation will affect both a unitary Exeter and residual County authority operationally, requiring highly complex joint arrangements that are costly to maintain, and therefore risk diverting funds away from service provision.

Vital services such as public transport systems, social care and schools which the county council now provides effectively, efficiently and economically would be split up. These costly and unnecessary changes which Exeter, as one of the smallest unitary authorities in the country will simply lack the financial ability or know how to effectively implement.

A unitary Exeter would not be in a position to concentrate the level of expertise and resources necessary to build on past improvements whilst joint delivery arrangements, such as those with the local PCT, would be more complex and costly to manage. Exeter City Council’s proposal and financial case relies heavily on the development of joint or shared service arrangements with the residual County Council but there remains a lack of clarity in the bid about how these would be achieved whilst failing to address the County Council’s loss of capacity. It simply defies common sense that proven evidence is being ignored while advances in co-operation and delivery of services are simply discounted.

These points bring me on to my next area of focus, ***how likely an Exeter Unitary is to achieve the Government’s objectives***. As I have already mentioned above, this proposal will not deliver value for money and nor will it meet the affordability criteria. This is now an indisputable fact, as agreed by the Boundary Committee and the Department for Communities and Local Government. The terms of the Communities and Local Government October 2006 invitation to local authorities made it clear that restructuring proposals must be affordable within the context of public finances and offer value for money, enabling the provision of efficient, effective and joined-up services.

Exeter City Council’s own consultants, Deloitte, at the time of their original bid identified 19 risks and issues associated with the financial case for a unitary Exeter and concluded that further detailed analysis was required to support the case. The fact that following the submission of further financial information by Exeter, the then Secretary of State, the Rt. Hon. Hazel Blears MP considered that there were still a number of risks to the financial case set out in the proposal absolutely must not be ignored. She believed

that, in particular, allowing a reasonable estimate for costs, the pay back period for the proposal may be over the 5 years specified by the affordability criterion.

It is grossly irresponsible to now skate over this, ignoring these acknowledged financial risks and instead simply claim “that the Government’s priorities today are above all for jobs and economic growth.” I don’t deny that jobs and economic growth are indeed worthwhile aims but Exeter is increasingly dependent upon its neighbours to create the business space and jobs to secure its employment growth, as is being done through the east of Exeter growth point. The development of key knowledge economy jobs are already being centred on the Science Park and Skypark, both of which are outside the Exeter boundaries and will be within the East Devon Parliamentary constituency, following the forthcoming General Election. This proposed separation will cut across that and now to fragment the economic development of Devon further would be a considerable hindrance. It is both impossible and foolhardy to attempt create either jobs or economic growth without a sound financial base.

As to *whether the estimates of costs and benefits are accurate* I am extremely concerned that financial assumptions upon which the original Exeter was dismissed derive from budget estimates for the 2007/08 financial year prepared as early as November 2006. Much has changed since then. Any previous argument, however spurious, that these figures represented a sound base on which to assess affordability loses weight as time progresses, particularly in light of the recent economic turmoil that we have all experienced.

However, whether these figures are accurate or not, a particularly pertinent fact is that it has been noted by the Labour Group Leader on Devon County Council, Councillor Saxon Spence that Exeter was incapable of going it alone without significant additional resourcing from the Government. Indeed, at a Devon County Council Cabinet Meeting on 13 January she stated “Regarding the Exeter proposal... I have made it clear it would require considerable financial support. I would not like to see the setting up of an authority without the capacity to deliver services, and I do think that there would need considerable financial underpinning...Times are not, perhaps, too promising.”²⁵

On the point as to whether the ‘outcome of consultation’ accurately represents the various views, given the significant impact that this proposed change would have on Devon as a whole I do feel very strongly that all views expressed throughout Devon must be given equal weighting. Throughout this protracted and drawn out process I have received a considerable number of letters, emails and communications from constituents, local businesses and professional bodies. Issues that have been raised include the loss of Devon’s last major urban area and county capital and the revenues it generates, the close economic and demographic relationship between Exeter and its hinterland; and that other unitaries within Devon were said to have struggled since gaining unitary status.

I myself have led a strong campaign against any form of local government restructuring, particularly as a result of strong opinions expressed by my constituents. But the unitary proposal has also gained negative feedback from a broad range of interested parties, including the Primary Care Trust, Strategic Health Authority, Police, District Councils, MPs, schools, headteachers’ professional associations, school governors and business organisations, who are seriously concerned about the dismantling of unified countywide structures. In addition, some voluntary and community organisations were concerned that there are already funding pressures on their work, and that the move to a unitary Exeter would increase the likelihood of cuts and disruption to ongoing projects or agreements.

²⁵ DCC Cabinet Meeting, 13th January 2010 2.05PM

As far as any *unintended consequences that these changes might give rise to* both the recently created schism between the Permanent Secretary for the Department for Communities and Local Government and the Secretary of State as well as the court action, recently undertaken by Devon County Council are both worthy of note.

On the 15th of February Devon County Council launched a judicial review. This is certainly not the first legal action launched throughout this process. Each legal action brought about has been both costly and time consuming but undoubtedly there has been reason and strong feeling behind it. These feelings and opinions must not be ignored; local government reorganisation affects lives, jobs, taxes and economic sustainability. If Peter Housden, the Permanent Secretary at DCLG has had “clear legal advice” that the risk of the schemes being “successfully challenged” in the courts “is very high” it begs the questions as to why we should all be put through this charade, particularly if an incoming Conservative Government is committed to scrapping this restructuring and abolish any shadow authority that may or may not have been elected.

To conclude, I would like to once again reiterate the negative impact this proposal would have on both the city and the county as a whole; wrenching the key population, business and education centre from the county is a massive risk and it is very difficult to see how either Exeter or Devon and its people would be better served.

22 February 2010

Item 17 - Submission from West Devon Borough Council

Further to your Committee’s call for evidence in respect of the above, I am writing with a submission on behalf of West Devon Borough Council. Please refer to the attachment which sets out a response in accordance with your request.

At the Council meeting on 16 February 2010, the Council approved the following resolution:-

“That Council resolves to reject the Minister for Local Government’s justification for her decision to impose an Exeter unitary authority and expresses its support for Devon County Council’s stated opposition to this proposal.

Council concludes that this is an illogical decision resulting from a fundamentally flawed process throughout, made by a government at the end of a term of office and in total contradiction of its own prescribed affordability criterion.

Council affirms that this decision is a tragedy for Devon and an abdication of proper public responsibility by Ministers, as implementation of these proposals will fracture and damage the county irrevocably.

Council re-asserts that there is an overwhelming public consensus across Devon as a whole that a unitary Exeter is not in the best interests of either the residents or businesses of the city or others in the rest of the county.”

Please contact me if you require any further clarification or additional information in respect of this submission.

Body of submission:

West Devon Borough Council has responded at all consultative stages of the local government review in Devon expressing views that have been informed through a wide community engagement in the locality.

Information here is provided in accordance with the call for evidence request.

How it is anticipated that these Unitary Authorities will work in practice?

The new authority will apparently come in to effect under the guidance of an Implementation Executive. This body will have to be quickly convened and its governance arrangements rapidly resolved to enable it to commence work on transition and implementation. Timescales for commencement by April 2011 therefore seem incredibly challenging even if this Executive is actually formed within the next few weeks.

The original Exeter bid contained that council's aspirations for running upper tier services in a City unitary and was based on assessments at 2007 prices. Demand for services, relative priorities for local government as well as individual financial arrangements have changed in the interim as a consequence of the global recession.

Transition will be very challenging alongside running normal operations in a foreshortened transitional period. The process of transition in other areas (e.g. Cornwall) had a longer run in but there have still been enormous problems and the process of actual transition has still to begin in many service areas.

New relationships would also need to be quickly formed during transition with partner organisations and stakeholders especially those with a Devon wide or peninsula deployment. A number of those agencies have opposed the Exeter bid asserting that it would make their operations more complicated. There is a real risk that the performance and quality of service to the public will deteriorate during the process of transition and this could last for an extended period with no guarantee of any sustained improvement in quality due to inadequate assessments and confirmation of the costs.

There is a risk that the costs of upper tier services in the rest of Devon will increase significantly as they will have to spread across a smaller tax base and population.

How likely they are to achieve the Government's objectives

The Government's objectives from the restructuring appear to have changed and are no longer clear.

Ministers have set aside the key consideration of "Affordability" one of five criteria that they previously insisted had to be met. Their justification for setting aside Affordability appears to relate to a desire to see a new authority drive the response to pulling the local economy of Exeter out of recession.

It should be noted that much of Exeter's current economic growth and potential future growth will be outside of the City unitary boundaries e.g. Skypark. A city unitary will not therefore have the complete influence over the whole economic area that Ministers now assert is the priority.

The original criterion of Value for money and equity is also unlikely to be achieved both as a consequence of inadequate modelling of costs and real savings that might be achieved but also because of the impact on the financing of services in the rest of two tier Devon.

The original prescribed objectives of Affordability and Value for money are so critical to the DCLG, Permanent Secretary, Peter Housden, that he required a formal written direction under paragraph 5.5 of the ministerial code from the Secretary of State to set them aside. This effectively absolves officials of legal responsibility for an expected failure in the policy. The exchange of correspondence with the minister makes it clear that there was an understanding of a high probability of a successful legal challenge.

The Secretary of State previously advised that he was withdrawing from this decision making process in Devon because of a conflict of interest. Having done so, it appears that he re-entered the decision making process to give formal written instructions to the Permanent Secretary.

The real objectives and rationale for this decision appear to be quite distinct from optimising local government for the benefit of the public being served.

Whether sufficient time is allowed to implement the changes

Based on the lead in periods for the other recently created unitary councils, an at best 11 month transitional period will be fraught with risks especially as the financial modelling of the arrangements is based on information which is out of date. The modelling of costs and savings has still not been updated or verified to reflect recent changes in the national economy and the state of local government finance.

If elections are planned for 2011 for the new authority, a formal electoral review should be undertaken as soon as practicable and completed in accordance with statutory procedures to ensure the new council commences operations with a proper democratic mandate which reflects the new purposes and role of the council.

Whether the estimates of costs and benefits are accurate

The Boundary Committee's Independent Financial Consultants (IFC) used data from the 2007/08 estimates to undertake their financial modelling and this was used to support the Committee's final recommendations to the ministers. Their report makes clear that the Committee did not believe there was a reasonable likelihood of the original Exeter bid meeting the required criteria.

The IFC qualified their final advice to the Boundary Committee asserting that it and subsequently ministers also, must satisfy themselves that the financial circumstances of the subject authorities was properly updated in reaching any decisions for change.

Neither the Boundary Committee nor the Secretary of State has demonstrated that this key requirement has been satisfied. Ministers have set aside the issue of affordability, acknowledging that the Exeter proposal still does not meet its original affordability test and substituted previously unknown and new considerations to justify their decision.

On that basis and in view of the fact that requirements of the IFC to re-check the financial position were ignored alongside the stated concerns of the Permanent Secretary, there must remain serious questions about whether the costs and benefits that have been claimed from implementing this decision can be relied upon.

Whether the outcome of consultation accurately represents various views

DCLG advised in December 2009 that in launching a period of Parliamentary consultation, all previous views of respondents to earlier rounds of consultation under the Boundary Committee's process would be taken in to account by ministers in reaching their decision. In publishing the summary of representations received on 10 February 2010, DCLG has only focussed on those representations made direct to the Department since last December.

DCLG asserts in that document that 26% of just under 1000 responses to the Secretary of State support a unitary Exeter outcome.

Responses published on the Boundary Committee's website up to the final report stage showed 67.2% of over 6500 respondents rejected all unitary proposals. Only 11.8% supported a Greater Exeter and Exmouth and 15.4% the single Devon unitary.

It is curious that the level of support expressed direct to ministers for the Exeter option in a shortened consultation, straddling the Christmas/New Year holiday period, has apparently more than doubled at a time when the general trend in Devon has been for the public to become more sceptical about the claimed benefits of any re-organisation.

The Boundary Committee's analysis in its final report of responses received from the public and stakeholders focussed disproportionately on those responses that appeared to show some interest in a unitary option.

Whether the changes might give rise to unintended consequences

The Council is convinced that there will be unintended consequences if this re-organisation proceeds.

As already stated, there is a high probability of an increase in the cost of upper tier services in rural Devon as a result of the reduction in tax base.

Providing services in rural areas is always comparatively more costly and this will have an enhanced impact on all those residing outside of a unitary Exeter as the costs of highway's maintenance, waste disposal, social care and children's services will fall on a smaller population in a very large sparsely populated county. Devon is the third largest county in England and will still be very large if the city unitary is confirmed.

The benefits anticipated by ministers in allowing Exeter to lead its own economic recovery is unlikely to be realised as so much of the future potential economic growth for the city will have to be outside of the existing City boundaries. In reality a city unitary would have to work in full collaboration with a range of partners, including other Devon authorities surrounding the city in achieving these objectives.

The Government's decision states that ministers expect to see collaborative arrangements being established between the relevant authorities in order to achieve these objectives.

Statements in public to date suggest that City politicians are determined to establish independent structures and arrangements. There has been no reference to looking pragmatically at any potential areas of collaboration or sharing of services.

The justification of the decision, flying in the face of the Government's own appointed expert advisers the Boundary Committee, who also rejected the original Exeter bid as unaffordable, suggests that the process of transition will be controversial and acrimonious.

This will inevitably lead to further public alienation towards local democracy and a distraction from the proper business of providing high quality local services as well as recovering from the recession.

February 2010

APPENDIX 3: DRAFT NORWICH AND NORFOLK (STRUCTURAL CHANGES) ORDER 2010: RESPONSES TO THE CALL FOR EVIDENCE RELATING PRIMARILY TO THIS ORDER

Item 18 - Submission from the Abbeyfield Society (Norwich) ltd

I have been Treasurer of the above Society for 26 years. We maintain a house in the Cathedral Close accommodating 8 elderly people.

Our residents are very active, particularly in the more intellectual sphere, and they are especially concerned over the chaos which will inevitable ensue consequent upon the splitting of Library and Social Services between the County and the proposed Unitary Council of Norwich should this occur. Much use is made of the Library, and in particular of the facilities at the Forum for research in various subjects, and they are concerned that these facilities will be impaired should the Unitary plan go ahead. They are also, understandably as their ages range from 75 to over 90 that the standard of Social care will diminish as a result.

A further, and significant, objection is that these proposals will lead to duplication of management particularly in the higher echelons, resulting in additional costs falling on both themselves, as City Council Taxpayers (through the Society) and also upon the Council Taxpayers in the County. There is the further danger that services may fall between two stalls and serious mistakes occur.

Over the past 30 and more years the present system has worked very well. Our residents have no confidence in the ability of Norwich City Council in whatsoever format to competently manage additional responsibilities given their abysmal record over the past decade in the financial and housing fields. By contrast the County is considered a 4 star Council by the Audit Commission.

The use of a Statutory Instrument to enact a Ministerial decision which flies in the face of recommendations by The Boundaries Committee, and which has been clearly demonstrated to be contrary to the wishes of the overwhelming majority both in the City and the County beyond its' boundaries smacks of political expediency rather than democratic engagement and it is the hope of our residents that you will consider their interests and resist this abuse of governmental power.

21 February 2010

Item 19 - Submission from Cllr Anthony Adams

I am a Parish, District and County Councillor and I am representing the views of my constituents.

The decision of the Secretary of State to grant Unitary status to Norwich on its own boundaries is in my opinion as serious a case of abuse of Parliamentary process that it is possible to achieve.

It totally ignores the recommendation from the independent Boundary Committee who have over the last three years carried out a thorough investigation into Unitary solutions for Norfolk and concluded the only viable Unitary solution was a single Unitary for Norfolk.

The Secretary of State also goes against the very strong advice from his permanent Secretary that this option does not offer value for money. Indeed the permanent Secretary goes further and tells the Secretary of State that if he is still minded to go down this route then he would want a letter from him instructing him to go ahead with the proposal.

Finally, the Secretary of State accepts that his solution does not meet the Government's own criteria regarding granting Unitary status. Neither do the reasons advanced by the Government for totally ignoring its own criteria add up when seriously examined.

In conclusion, I would ask your Lordships to come to the conclusion that because this is a serious case of Parliamentary abuse by the Government that the Statutory Instrument being laid before your Lordships is not worthy of your support.

February 2010

Item 20 - Submission from John Alston CBE

You have asked for evidence as to whether the 'outcome of consultation' accurately represents the various views. I do not believe that the creation of a unitary Norwich on its current boundaries does so and I have set out my arguments below.

I have responded to all the consultations that have taken place on local government review in Norfolk. I was asked to give my views on a unitary Norwich based on its current boundaries in 2007, and did so in line with the approach set out in the consultation document issued by CLG in March 2007 and the five criteria, which it said this proposal 'must' deliver. That document also told me how these would be used by the Secretary of State to come to a decision.

Para 36: After stakeholder consultation we will consider carefully all the representations we have received. Proposals will proceed to implementation, if, and only if, when we take our final decisions we remain satisfied that they meet the criteria, and that the overall use of reserves is affordable, having regard to the prevailing fiscal position and the risks against the estimated costs of implementation.

I was not surprised that the proposal for a Norwich Unitary based on the city's current boundaries failed the criteria of affordability and value for money and as a consequence not agreed for implementation. I note that since 2007, when it failed these essential tests, the prevailing fiscal position, and consequently the risks of implementing an unaffordable option have only got worse.

Since 2007 I have *only* been asked to give my views on all-unitary arrangements, but to give them still, on the basis of the agreed criteria.

I was therefore completely shocked to hear that, in making his decision for Norfolk, the Secretary of State concurs that these criteria are still not met, but that 'for compelling reasons' he had decided to depart from the rationale and approach for decision-making I was asked to give my views on, and create a unitary Norwich on its current boundaries anyway.

The Secretary of State did not communicate this changed approach in advance nor consult on it. As a consequence I have been unable to give my views about the changed rationale, or its likelihood of meeting the stated objectives despite the fact that it has been used to justify the creation on an authority that would, by his own admission, be unaffordable and represent poor value for money. If implemented this Draft Structural Change Order will have significant implications for the services I receive and the Council Tax I pay. It will also deprive Norwich citizens of their vote in the scheduled city elections for 2010. This is surely unlawful.

The outcome of consultation does not accurately represent the various views.

Despite the evidence from the Boundary Committee and the Secretary of State's own consultation shown below, the Minister for Local Government in her statement on 10 February 2010 announcing the decision decided:

“Our assessment is that contrary to the Boundary Committee’s views, the alternative proposals for unitary county councils in Devon and Norfolk do not meet all the criteria. Our judgement is that there is not a reasonable likelihood if these proposals were implemented, of their delivering the outcomes specified by the broad cross section of support criterion.” She further stated that the Norwich unitary proposal on its existing boundary did meet the broad cross section of support criterion.

The evidence does not support the logic for reaching this decision. The Boundary Committee’s extensive, two-year process, which required it to examine options against all the criteria, concluded that a countywide unitary was likely to command the support of a broad cross section of stakeholders. The recent representations made to the Department for Communities and Local Government about the Committee’s recommendation showed a county unitary to command *more* support than that involving a Norwich unitary authority.

Where the original Norwich City proposal is concerned, I refer the committee to the CLG report ‘Proposals for future Unitary Structures: Stakeholder Consultation, Summary of responses 2007’, This summary report demonstrates that of all sixteen unitary proposals consulted upon the time, CLG received more responses on the Norwich proposal than any other. 1,633 responses were received in total, (ignoring so called campaign responses).

The report fails to give any breakdown of the numbers of responses for, or against the Norwich Unitary proposal, (though I understand that the department was asked to do so by Norfolk County Council). So I do not know the actual numbers for and against.

However the level of the response rate, the refusal to publish a list of the numbers for and against a city unitary on its current boundaries and the summary comments included in the report point only to one conclusion – that the vast majority were likely to have opposed the Norwich proposal. The summarised comments certainly illustrate the strength of feeling of many important stakeholders against the City proposal. Pages 24 and 25 of this report contain six paragraphs summarising the nature of those responses. I give the following extracts to evidence to Committee Members that that they demonstrate more opposition than support for a unitary Norwich proposal, based on its current boundaries and significant levels of concern.

- i. 85 Norfolk Councils, other than Norwich, had a number of concerns about the robustness of the business case for this unitary proposal. They were also expressed concern about what they saw as Norwich’s poor history of partnership working and that transition costs may result in council tax increases or service reductions. They were also of the view that Norwich City Council lacked a satisfactory track record on service delivery and cost, citing a number of highly critical Audit Commission reports. ... They argued that strong and widespread opposition to this proposal would cause lasting and intractable harm to countywide working relationships.
- ii. 86 A substantial number of responses received from Parish and Town Councils expressed concerns about this proposal. Concerns included the cost and disruption to services of structural change and Norwich’s recent history of financial management - especially when compared to Norfolk County Council
- iii. 87 Representations from public sector organisations showed a mixture of views. Some highlighted the potential for a unitary authority to provide greater clarity and thus effectiveness via the integration of services and improvements to partnership working. Others noted that changes would be too disruptive, straining already limited resources, adversely affecting service delivery and partnership working. Many pointed to the service delivery performance of Norfolk County

Council in comparison with Norwich and raised concerns over possible duplication of services and effects on the co-terminosity of boundaries.

- iv. 88 Around a third of the voluntary organisations responding to this consultation expressed support for a unitary authority, arguing that it would bring greater cohesion and accountability. Of those broadly critical of the proposals (i.e. two thirds) the primary reasons cited were: high set up costs; disruption to services; duplication of working structures county wide and loss off economies of scale. Norwich's ability to sustain a unitary authority with its current small population was also a concern.
- v. 89 Representations expressing support were received from the business sector, however the majority of responses from business expressed concerns about the city's record of financial management and history of working with other authorities and organisations.
- vi. 90 Representations received from the public during consultation expressed concerns about the unitary proposal, primarily due to concerns about high transition costs involved and Norwich's history of financial management. Service delivery was also an area of concern.

This was the result the last time we were asked for our views on a Norwich Unitary based on its current boundaries. The Boundary Committee process since then consulted on unitary only options for the county of Norfolk. It had a number of phases, but finally, asked for views on two options - a Norwich City unitary on extended boundaries, linked to a Norfolk rural Authority and a Countywide unitary (its preferred option). I responded in this consultation too.

The Boundary Committee found most Norfolk people wanted to retain the status quo, but that of the two unitary options, the option including a unitary Norwich on extended boundaries was the *least* popular option and, in its expert opinion, *unlikely* to meet the criteria requiring any option to command a broad cross-section of stakeholder support as well as failing the affordability criteria. By contrast, the county unitary option was assessed as likely to meet all the criteria and subsequently formed the basis of the Boundary's Committee's final recommendation to CLG.

Finally, I responded to the invitation from the Secretary of State to make representation on the Boundary Committee's recommended option. The results from this consultation show the Norwich unitary option to be the least popular option - commanding support in only 3% of the responses received, compared with 85% in favour of the status quo and 10% for a county unitary.

In the press release that accompanied her announcement of the Secretary of State's decision, the Local Government Minister, Rosie Winterton said: "Across Norfolk, Devon and Suffolk we listened carefully to all views and it was clear the options of unitary structures for the whole of Norfolk and Devon had no support"

The evidence set out above proves this to be completely untrue.

This Draft Structural Order is *not* laid on the same basis as those previously considered by members of the Merits Committee and gives rise to legal and constitutional matters so severe, that it should *not* be recommended for approval.

I consider that:

- i. the sudden departure from the agreed approach and rationale for making a decision as set out in the White Paper;
- ii. the failure to ask for my views on 'compelling reasons' for departing from the agreed rationale; and

- iii. the ignoring of the *actual* results of consultation shows the Government to be guilty of treating the electorate with contempt and a gross misuse of parliamentary powers.

19 February 2010

Item 21 - Submission from Aylmerton Parish Council

This response is provided by a small (electoral role of 369), but fully elected for the past two terms, rural parish council in the north of Norfolk and positioned some 22 miles due north of Norwich.

When first being consulted by the Boundary Committee (BC) it was stressed that for *any* proposed scheme for unitary status to be acceptable it had to meet all five of the “assessment criteria”, no ifs, ands or buts! The, now preferred, scheme for Norwich fails to do so as follows:-

It does not have the broad cross-section of public support.

Without the inclusion of an additional area called “greater Norwich” (an alternative structure we had been asked to consider by the BC), Norwich City is of insufficient size to become a viable unitary authority with regard to affordability.

It lacks the required strong strategic leadership, as well as the essential expertise to provide all the necessary services as a stand alone authority.

Norwich City Council has had, over a number of years, a reputation for less than satisfactory financial control as evidenced by audit control reports.

The removal of disproportionately large amounts of revenue from the remainder of the Norwich County Council budget in future years will impact adversely upon the services they are required to provide throughout the county.

In conclusion, the establishment of a unitary authority for Norwich, as it stands, will be detrimental to the prosperity and services throughout the County. As the local but influential press has described it, the proposal is “the worst of all worlds”!!!

February 2010

Item 22 - Submission from Richard Bacon MP

I am writing to you about your Committee’s call for evidence about the above Order, because I have concerns – which appear to be shared by the senior civil servant in the Department for Communities and Local Government – that the government’s approach does not represent a defensible use of public funds and may be both unfeasible and unlawful.

On 3 February 2010 I wrote to the Permanent Secretary of the Department for Communities and Local Government, Mr Peter Housden, in his capacity as Accounting Officer for the Department, concerning an impending ministerial decision on unitary local government affecting Norwich.

I drew the Permanent Secretary’s attention to a number of issues relating to the minister’s decision. I asked the Permanent Secretary if he could confirm to me – given these considerations, and given that, in light of them, he might have difficulty in recommending to ministers that at present further expenditure on pursuing a unitary option for the City of Norwich would represent a defensible use of public money – that if ministers decided to proceed with a unitary option for the City of Norwich, Mr Housden would be asking for a Ministerial Direction before proceeding.

The Permanent Secretary, Mr Housden, replied to me on 10 February 2010, in an email which he copied to the Cabinet Secretary, Sir Gus O'Donnell.

In his email to me, Mr Housden attached a copy of a letter which he had written to the Secretary of State for Communities and Local Government, in which Mr Housden does indeed ask the minister to issue him with written instructions before he will proceed, on the basis that, as Accounting Officer, he had concerns about the value for money and feasibility of the proposals; that the course of action which was proposed would make it difficult for him to meet the standards expected of him as an Accounting Officer; that he had doubts about the legality of the proposed course of action; and that the minister's approach faced a very high risk of being successfully challenged in judicial review proceedings.

I attach copies of this correspondence [*letters between Peter Housden and John Denham MP printed at Appendix 1*] and I would be grateful if you would consider it as part of the evidence in your forthcoming enquiry.

Letter to Richard Bacon MP from Peter Housden

Thank you for your email of 3 February 2010 relating to Ministers' consideration of the proposals for unitary local government in Norfolk.

You will be aware that the Minister for Local Government has today laid a written statement in the House setting out the statutory decisions that Ministers have taken in relation to the unitary proposals before them on Devon, Norfolk and Suffolk.

You raise questions relating to my specific duties as Accounting Officer for Communities and Local Government. You may already be aware that earlier today I sent to C&AG, as I am required to do, a copy of a direction I had received from the Secretary of State in relation to those decisions. I am enclosing a copy with this letter, along with my letter to the Secretary of State of 8 February.

In relation to the issue of timing raised in your email, as set out in the Civil Service Code, the Civil Service supports the Government of the day in developing and implementing its policies, and in delivering public services. While special conventions apply once a General Election has been called, as you will appreciate until the election is called, the usual business of Government continues. Civil servants are accountable to their Ministers, who in turn are accountable to Parliament. Provided, therefore, that any policy the Government wishes the Civil Service to implement is within the law and not otherwise improper, it is our duty to implement that policy.

February 2010

Item 23 - Submission from Barford and Wramplingham Parish Council

Barford and Wramplingham Parish Council have asked me to inform you of their views regarding the Norfolk Structural Changes Order. The Councillors feel that the document is very biased towards Norwich as a city with little recognition of the rural communities throughout the County. They also felt that public service delivery would favour the city and again not fully represent rural county-wide issues and people.

February 2010

Item 24 - Submission from Keith Belton

I would like to make some comments on how likely Unitary Status for Norwich will achieve the Government's objectives. I believe it is a purely political decision which for the sake of good government must be overturned.

The statement from the Minister talked about Norwich and Exeter needing to be a “far more potent economic force than the current two-tier local government, and will make sure these two key regional cities are ready to seize the opportunities opening up as the recovery begins to promote growth, reduce unemployment, and rebuild local economies.”

In the case of Norwich there has been a major misunderstanding of what the City is able to achieve on its own.

Norwich is unusual in that the area covered by the City Council is far smaller than the area that is generally referred to a Norwich. This will not change under the proposals.

Over the last few years all the major development in terms of commerce and housing has occurred in the areas covered by either Broadland District Council or South Norfolk Council. Any organisation seeking to move to or expand in Norwich will do so in areas outside the City Council jurisdiction.

The following quote has been taken from the DfT press release of 16 December.

Sadiq Khan said:

“This Government is committed to investing in key transport links which help boost economic growth. We have agreed to provide significant investment to allow Norfolk County Council to deliver vital improvements which will support jobs, encourage economic growth and attract further investment to the area.

“This scheme will provide improved access to the North and North East of Norwich, including improving connections to the strategic road network via the A47 and A11. It will also improve access to employment locations and will help Norfolk deliver wider proposals for pedestrianisation, bus priority measures and strategic growth in and around Norwich.

“The £21m Community Infrastructure Fund investment for the proposed improvements at Postwick Hub will deliver an improved junction at Postwick, increased park and ride capacity and provide the potential to unlock sites for up to 1,600 homes, reflecting the Government’s commitment to supporting growth in Norfolk.”

The vast majority of the route lies in the Broadland Council area as does the Postwick Hub. The government is clearly funding projects to support growth in the Norwich area and seems to believe that a new Unitary Norwich City Council will be able to facilitate economic growth in areas outside its control.

This highlights the fact that the proposal for a Unitary Norwich is seriously flawed as it cannot possibly deliver the benefits claimed for it.

I recently listened to a Radio interview with the Leader of Norwich City Council. From that it was clear that a number of “joint ventures” would need to be set-up to manage services that Norfolk County Council currently provides, an example is the Fire Service. This clearly demonstrates Norwich is too small to manage its own provision and therefore the anticipated costs and benefits are most likely inaccurate. It also shows additional costs will be placed on the rate payers of Norfolk.

You asked whether the ‘outcome of consultation’ accurately represents the various views. It is clear from all the comments made in the Press and from the Boundary Commission’s own publications that the outcome totally ignores the views of Norfolk.

Finally, you asked whether the changes might give rise to unintended consequences. I think they will as more people will look to live in the District Council areas surrounding Norwich rather than in the City itself. This is because they will be able to benefit from the facilities without having to meet any of the cost. At the moment some of my County Council rates are used to provide facilities in the City of Norwich and this is sensible as I

can use the facilities there. With a Unitary Norwich the full cost will be met by the people of Norwich a traditionally high rate area. The City has always maintained that its rates are high because of the services it has to provide for people who do not live there. It now wants to cut itself off from the rest of Norfolk who currently part fund it – sheer madness.

February 2010

Item 25 - Submission from Blakeney Parish Council

With reference to the above sent to B.P.C. 15 Feb:

We object to any change for Norwich to Unitary Authority at this time, as it's a political move and waste of money.

February 2010

Item 26 - Submission from Alister Borthwick

I am a farmer in rural north Norfolk who has diversified into tourism through providing camping and backpackers hostels. Over the years we have converted buildings, no longer useful for modern agriculture, for tourism use including a range of shops and café. With my family we are proud to have created many jobs, both directly and indirectly, in this rural area

Marketing of these facilities is a fundamental requirement. Our range of facilities can be viewed from www.deepdalefarm.co.uk

To split Norwich and the rest of Norfolk into two unitary authorities would be very poor for tourism and lead to duplication and infighting rather than a coordinated and well planned approach. Tourism is fundamental for employment in Norfolk. The proposed arrangement should not be allowed.

February 2010

Item 27 - Submission from Broadland District Council

I am writing on behalf of Broadland District Council. Very few people will be aware of your call for evidence so I am sure that you will wish to take notice of the very many views put forward to the Secretary of State and the Boundary Committee by many people who live in Norfolk and those businesses and other organisations that have put their views on the record.

I am sure that I have no need to remind the Committee that it is the people of Norfolk, who bear the financial and service delivery risk. They have been very clear in remarkable numbers, given the poor consultation carried out that they think the risks of change are too great and they want to keep the existing arrangements that they are saying work well for them.

Body of submission:

Affordability and Value for Money

The evidence on these two criteria is remarkably clear. In 2007, the proposal for a Norwich City Unitary Council was judged by the Government to fail these two criteria. Those figures have never been updated. They are approaching four years out of date and, if anything, they have deteriorated because of the effects of the recession on council finances. For example, income levels from parking and planning fees has reduced significantly. Also savings that might have been used to pay for transition costs have

already been taken. It seems remarkable that the Minister is saying that this is unaffordable yet can go ahead given the poor state of the country's finances. Surely, these criteria ought to have more prominence rather than be ignored.

The Government and other Government supported change agents, such as the Regional Improvement and Efficient Partnership are promoting amalgamating service delivery to achieve economies of scale yet this Order, if approved, will fragment "big ticket" services such as Children's Services and Adult Social Services. This sends very mixed messages to the local government sector.

This fragmentation will lead to two Children's Services Departments for example. If it doesn't then why change the current arrangements? This will add to existing management costs, duplicate ICT systems and data management systems. This will take money away from the front-line.

The geography of Norwich is that it has a very tight boundary, which does not incorporate some of the built-up area. One of the consequences is that there are large cross boundary movements of pupils to Secondary Schools, particularly for 6th form. There will be a bureaucratic cost to keeping the level of parental choice currently enjoyed. This could affect admissions policies, home to school transport, etc.

Most roads in Norfolk lead to Norwich and many people look to facilities in the City area provided by the County Council. An example would be the central library facility called the Forum. To keep arrangements that benefit many Norfolk people there will need to be either a joint service (so why change) or protocols in place to give customers what they currently enjoy.

It has been estimated that it will cost £1.9 million in bureaucratic costs to establish and run a joint Fire Authority.

The proposed Norwich City Unitary Council will be small and probably under-resourced to deliver to a population with significant pockets of severe deprivation. This new Council will be unable to provide some very specialist services, for example to vulnerable children. They will need to contract these out to the Norfolk County Council, that remains. This again will carry an administrative on-cost. However, there will be other functions where the Norfolk-wide provision is located in the City for reasons of public access. Again, this will lead to the Norwich Unitary Council and Norfolk County Council having to charge each other for services – a bureaucratic cost that is not needed under current arrangements.

The original figures put forward by the City Council are not only very out of date they were also deficient because they did not include the costs to other organisations of splitting up County Council services. So, for example, many county-wide voluntary groups will need to contract with two councils – that gives rise to a cost to them. Also NHS Norfolk has stated that it too will have to bear additional costs when working with two councils, responsible for children's and adult social care services.

Service Delivery

Norwich City Council's original bid talked about reductions in library provision and also social work staff to balance the financial books. When challenged that was changed to the savings would be made in back office services. That is not credible as the new Unitary Council would need to replicate the back office systems currently operated by Norfolk County Council. Even a very successful programme of business process re-engineering could not take out every bit of administration because that is what is effectively being claimed as the number of adult social services administrative staff that would be transferred to the new Norwich Unitary Council is more than the number of staff to be saved.

There is an argument about whether this proposed change will give a greater voice for Norwich and Norfolk both regionally and nationally. There is no evidence to give an answer to this argument. However, there is the risk of two voices giving diametrically opposed views and the consequences that might bring. What is clear is that one of the Government's compelling reasons to promote this Statutory Instrument is a priority for jobs and economic growth. There is no doubt that should carry much weight. However, the Joint Core Strategy for the Broadland, Norwich and South Norfolk sub-region shows the vast majority of the growth as being outside Norwich's tightly constrained boundary. Thus, the argument advanced by the Government when looked at in detail does not hold water. It could be argued that the Government was scratching around for a plausible reason for dropping the two criteria that the proposal failed.

There is much research that suggests that structural changes such as that embodied in this Statutory Instrument lead to a dip in performance as limited staff time is devoted to planning and implementation of transitional arrangements. I have no doubt that the officers at both Norwich City Council and Norfolk County Council will go to great lengths to minimise the impact but both those Councils are in the middle of major programmes that will take out a large amount of management capacity, for example the County Council is taking out 65 senior managerial posts.

The new Unitary Council will inevitably have a number of councillors with little or no experience of managing "big ticket", "life and death" services such as those for vulnerable adults and children. They will need to learn very quickly to be able to set appropriate policies and initiate sensible safeguards.

We believe the biggest service risk is the potential duplication of the safeguarding children arrangements. Given the flows of children across the boundary between Norwich and the rest of Norfolk the information sharing needs to be perfect to avoid information being missed. This is unfortunately still an issue that gets raised in serious case reviews despite a number of years of many dedicated professionals working to eliminate this shortcoming.

Support

The support for this change is very small. The latest evidence published by DCLG is that 3% of respondents to the latest round of consultation support a Norwich unitary. Given that governance is such an important issue we would expect the Government to either respect and support the views of the majority or if they think those views are tainted in any way to conduct a binding referendum on this change.

The Future

The Committee need to be aware that Norwich City Council thinks that a Norwich City Unitary on existing boundaries is the second best option. They believe that a Unitary on enlarged boundaries is a better option, for example:-

- It would include the proposed growth areas
- It would provide more resources
- It would make the Unitary more self-sufficient and independent of the County Council, serving the rest of Norfolk

We have a major concern that the new Norwich Unitary Council will prove to be too small, it will struggle to meet the needs of its area as it has limited resources and costs will rise and savings not materialise. If that proves to be the case then another change would be needed at further expense to the public purse.

Conclusion

We would ask your Lordships to place on one side of your weighing scales the advantages espoused by the Government and on the other side the risks to Norfolk and Norwich residents, taxpayers and service users. We would respectfully suggest the scales will tell you that this Statutory Instrument should not get your support.

18 February 2010

Item 28 - Submission from Barry Capon

I wish to submit to you that the above order should be drawn to the attention of the House on the following grounds:-

A. that it is both politically and legally important and gives rise to an issue of public policy likely to be of interest to the House, in that

- i. It is most likely to be susceptible to a successful judicial review in that the rationale for the order is different to any rationale previously put forward for such a change and this rationale has not been the subject of public consultation as the law requires. The Minister concerned was advised of the likely illegality of the order but proceeded notwithstanding the advice.
- ii. That if approved it will deprive my wife and me, as residents of Norwich of our votes in the elections in May of this year. Since the performance of the current council in terms of its financial management and service delivery continues to be a matter of considerable public comment and concern, we had every expectation of being able to express our views on this by exercising our democratic rights through the ballot box on May 6th. This is a significant reduction of our Human Rights at a critical time in the government of the UK.
- iii. The decision to make the order appears to be one based solely on political considerations and without regard to the merits of the issues involved.

B. that it may imperfectly achieve its policy objectives, in that Norwich on its existing boundaries will not be capable of creating improved economic benefit for either Norwich or the greater Norfolk area. The City Council has been shown by annual audit reports and other inspections to be incapable of effective and efficient service delivery. The evidence shows that widespread concern about size, scale, performance and ability to work effectively in partnerships, dominated the responses received when the proposal to create a city of Norwich unitary council based on its current boundaries was consulted on in 2007. In addition, it is most unlikely to deliver benefits for the wider economy because the majority of the planned development, growth and infrastructure will be outside the boundaries of this proposed authority and therefore led by others.

I invite the committee to recommend that the order be suspended until after the decision is made in any judicial review, or, having regard to its political motivation, until after the General Election in May.

19 February 2010

Item 29 - Submission from Charles Clarke MP

Thank you for your request for written evidence in relation to the Draft Norwich and Norfolk (Structural Changes) Order 2010. I am writing as the Member of Parliament for Norwich South and as a supporter of the Order.

Of the 135,800 residents of the City of Norwich (2009 figures), 93,000 (68.5%) live in the Norwich South parliamentary constituency, which I represent, and 42,800 (31.5%) live in Norwich North, which is represented by Chloe Smith MP. Over 90% of my constituents live in the City of Norwich as do about 40% of Chloe Smith's constituents.

These residents of the City of Norwich are the people who will be directly affected by this Order; in fact the citizens of Norwich who have a direct interest in the passage of this Order are all constituents of either Chloe Smith MP or myself.

I note that you have also sent your request for written evidence to other Norfolk Members of Parliament but I am bound to point out that none of the constituents of these other Norfolk MPs are affected by this Order, other than very indirectly. There is no reason to believe that the services offered by a new Norfolk County Council serving about 85% of its existing population would be of a significantly lower quality than those offered by the current County Council. This has so far not been argued anywhere and I believe that it would be very difficult to make that case.

These other Norfolk MPs are of course perfectly entitled to make the case, as they have done in Parliament and elsewhere, that the status quo is best and so that this Order should not be supported. However, unless new arguments are now adduced, I do not believe that they are entitled to make that case on the grounds that the interests of their constituents will be damaged by passage of the Order. The decision of the Norfolk district councils not to seek judicial review of the Secretary of State's decision to lay this Order suggests that they share the view that their citizens' direct interests will not be damaged by the passage of this Order. I hope that your Committee will take this into account when considering the weight to be given to the views of my Norfolk colleagues who do not represent Norwich.

As to your specific questions:-

How it is anticipated that these Unitary Authorities will work in practice

I believe that in practice the new Norwich City Council will be an effective unitary local authority, bringing together public services in a way which is strategic, transparent, cost-effective and of high quality. It will work in close and good constructive co-operation with the new Norfolk County Council, as well as with the neighbouring districts. The current Greater Norwich Development Partnership shows that such partnership can be successful.

I think that Norwich is already the largest city without unitary status. It is a medium-sized and compact city, but growing very quickly now to over 135,000 people. It is recognised by EEDA as one of the "engines of growth" in the Eastern region, and has growth point status. Current proposals mean that by 2026 the population of the area will have risen significantly beyond this.

Norwich City Council already has a bigger or similar population to existing unitary councils, including Hartlepool (91,700), Darlington (100,500), Bracknell Forest (114,700), Halton (119,800), Middlesbrough (139,000), Cleveland and Redcar (139,500), Blackburn with Darwen (140,700), Blackpool (141,900) and Reading (145,700).

These councils all perform well by national standards and there is every reason to believe that a new Norwich City unitary council would perform equally well, and also deliver significant efficiency savings.

It is true that in the past there have been some areas where Norwich City Council has not been effective, but performance in the last two or three years, for example in financial management, has significantly improved.

Finally I should say that my own view has always been that the benefits of unitary status would be greatest for Norwich if the boundaries of the new authority were as wide as the whole built-up area of the City. I regret that the recommendations of the Boundary Committee did not permit the Secretary of State to choose this option, but I do believe that a unitary authority on current boundaries, as proposed in this Order, will be significantly better for my constituents than the status quo.

How likely they are to achieve the Government's objectives

I believe that it is very likely that a unitary Norwich will achieve the Government's objectives, both in relation to promoting economic growth and in relation to other decisions.

Whether sufficient time is allowed to implement the changes

I believe that the timetable is entirely feasible. This issue has now been considered in detail over a number of years and a great deal of preparation has been undertaken.

The 'unitary on current boundaries' option is in fact less complicated to create than other options would have been.

Whether the estimates of costs and benefits are accurate

I am not in a position to provide detailed views on this but have no reason to believe that they are not.

Whether the 'outcome of consultation' accurately represents the various views

Unfortunately the Boundary Committee's consultations were extremely incompetently conducted. The issues were not set out clearly and the Committee itself kept on changing its proposals, including presenting some which were bizarre and had absolutely no local support. The consequence was the local opinion became extremely weary and cynical about the whole process.

In Norwich there was certainly strong opposition to the idea of a unitary Norfolk County Council, particularly because of its size (Greater London would fit more than twice into the area of Norfolk, and Norfolk's population is 85% that of Birmingham).

Whilst it is the case that some opinion outside Norwich was against being 'taken over' by a Norwich unitary, the support for unitary local government in Norwich itself is strong. Consequently I believe that this Order, which does not encroach upon other district councils, has good local support.

This support has been reinforced by a number of recent decisions by the County Council, notably to close two day care centres, to switch off street lighting at night, and to remove funding from some Norwich schools with greater needs. These decisions have been very unpopular in Norwich and have reinforced the view that Norwich should have a council which can take these decisions for itself, without being subject to decisions taken by councillors living nearly 50 miles away from the City and who are not familiar with the City's concerns.

Whether the changes might give rise to unintended consequences

I cannot see any unintended consequences.

I hope that this submission is helpful to the Committee.

February 2010

Item 30 - Submission from Ian Corsie

I am responding, as an individual, to the invitation to submit evidence in respect of the above proposal.

I am a Chartered Engineer and a Fellow of the Institution of Civil Engineers. From 1979 to 1987 I was County Surveyor of Norfolk. In the years preceding the reorganisation of Local Government in 1974 I worked on the formation of the new County of Humberside.

Achievement of the Government's objectives

Apart from the blatantly political, it is no longer possible to see what these are. The Ministerial decision referred to Norwich as a "driver", but Norwich is not in a position to drive any substantial commercial or business expansion because it lacks the resources, the space and the manpower to do so. The population of Norwich is about 122,000. The population of the immediately contiguous urban parishes in the adjoining Districts (those which continue the built-up area without a perceptible change) is about 74,000. It is amongst and beyond these parishes that any increased economic activity will largely take place. The role of Norwich as a Unitary Authority will make no difference to the economic future of this part of Norfolk, and is more likely to confuse than to drive the process.

Time for implementation

I am no longer sufficiently well informed, but the time scale proposed is very tight – even with goodwill on all sides.

Costs and Benefits

The Government proposal is for a change which is certain to increase costs overall. There will be expensive duplication of chief and senior officer posts in Norwich to manage services transferred from the County Council, but this will not leave the County Council with a significantly reduced workload for their own senior staff. Indeed, the costs of separately administering the same level of service to a no doubt increasingly bemused population within and without Norwich are more likely to increase. The past performance of Norwich City Council does not give rise to any confidence that they will be competent to undertake any wider responsibilities.

Outcome of Consultation

If by this is meant the recommendation of the Boundary Committee, then I think it was an accurate representation of the various views. Their recommendation for a Unitary Norfolk was completely justified.

Through the whole long process, the pronouncements that received most publicity were those of the Leaders of the various Councils. Inevitably this reflected the particular party lines of those majority parties.

The people of Norfolk have not been well served by the current batch of elected representatives. The picture that emerges from the media coverage is of a distasteful degree of self-seeking all round. From some Norwich City Councillors there is an impression of power and self aggrandisement being sought for its own sake, and from a substantial number of County Councillors who are also District Councillors has come their opposition to a Unitary Norfolk based on their own desires to sit on two Councils.

When the Boundary Committee reported, it seemed significant and sensible that weight was given to agencies like the Police and the Health Service, because there is such a profound level of ignorance about who delivers what local government service, even among those who are otherwise well informed. This ignorance has been played upon to good effect in Norfolk by all the Districts, Norwich included.

Unintended consequences

There is a strong possibility that Norwich as a Unitary will be seen as irrelevant by industry and commerce as science research and science based industry continue to locate outside the city boundary.

Also, among the topics which come to mind as opening up potentially disadvantageous consequences for Norwich are:-

Waste Disposal

Fire and Rescue

Paying for the Bus Station

Paying for the Park and Ride System (all of it being located wholly outside the City)

February 2010

Item 31 - Submission from Cllr Leslie Dale

To do as is suggested by the Government would seriously undermine the ability of both Norwich and the County Council to deliver services efficiently. The economies of scale obtained by the current [status quo] arrangement would be undone by splitting the workforce into Norwich/remainder and cause probably higher Council Tax in Norwich than currently as 2nd tier and certainly cause higher costs in the rest of the shire county; thus worsening Council Tax levels in that area.

South Norfolk has recently taken £2m out of its budget to balance the books and I am aware that the County has been economising for about 5 years, as I recall its previous leader mentioning to me. There is very little fat if any in the County and I predict [being a SNDC Cllr] that it will be the discretionary services for the more rural communities which will suffer further, than may currently be the case, as the County comes to balance its budget 2011-2012.

Therefore I am opposed to the Government's wish and I have not attempted to discuss the failings which at least one previous Secretary of State has perceived in Norwich City.

February 2010

Item 32 - Submission from Denton Parish Council

We appreciate the opportunity to express our views in respect of the proposed Unitary Status for the existing Norwich City Area.

We entirely agree with the evidence given by South Norfolk Council and so do not intend to waste time by repeating the same evidence.

We are very surprised by the latest proposals, which appear to be the same as those rejected by the Secretary of State in 2007 on the grounds that they did not satisfy the five criteria set by the Secretary of State. In our view that remains the position today. The change is now being justified on the basis that a Unitary Norwich will be "..... a far more potent force for delivering positive economic outcomes than the status quo". In our view transferring functions from Norfolk County Council to a comparatively small Unitary Norwich is not going to have any positive material effect on the economy of the city and the wider area. In particular we would point out that most of the planned future economic growth in the area is due to take place outside the City area.

In conclusion, we suggest the case for change has not been made.

February 2010

Item 33 - Submission from Drayton Parish Council

My Parish Council has always been against this as the present system has worked very well for us.

It is felt that Norwich has not proven the financial test needed for such a big change and obviously therefore should not be allowed to act as a Unitary Authority.

We find it so strange that the Government after dragging its heels on much more important administration, decides to implement a sweeping change at such short notice.

Therefore on behalf of my Parish council, please express our strong objection to such a change.

February 2010

Item 34 - Submission from East Ruston Parish Council

Over the last 12 months there have been many discussions at our Parish Council meetings about the merits, or otherwise, of the various suggested changes to Local Government in the Norfolk Area. We have been kept fully informed by both District and County Councillors who are attached to our Parish and they have been involved in most of the discussions.

The Parish Council, after listening to the arguments for and against Unitary status, have been of the opinion for some time now that it is not something they would support. This is based on two fundamental issues.

1. Cost. In these times of limited funding and budget cuts, the impact of the extra expenditure involved can only come from savings on the services that should be provided to the residents of our area. The effect of which is bound to be very serious. There is also the issue of the potential increase in unemployment, on top of job losses due to the state of the economy, which would be very hard indeed to bear and would hamper the area's ability to survive the recession.
2. Why change? The current system works well and provides for our residents. We have a good working relationship with the larger Councils in our area and we are not convinced, even after hearing all the arguments for such a change, that any improvements will come out of this proposal.

I would very much appreciate it if you could ensure these thoughts are taken into consideration by your Committee.

22 February 2010

Item 35 - Submission from Cllr Roger Foulger

I write to express my dismay at the decision of the Secretary of State for Communities and Local Government to grant Unitary Status to the City of Norwich. The original application by Norwich City Council was found to be flawed by the Government in that it failed on the grounds of affordability and value for money above all and in addition it did not meet remaining criteria. As a direct consequence, the then Secretary of State, Hazel Blears, indicated that she was minded to refuse it. The City Council has been over a number of years an under-performing organisation and as such would not be able to undertake the responsibilities of a Unitary Authority. Nothing has changed since Ms

Blears gave her indication to refuse and clearly there is no logical justification for the recently announced decision.

The Minister seeks to justify the current decision by stating that Norwich would be a focus for providing development and employment but the fact is that progress in these areas has been and continues to be made by the District Councils such as Broadland with their innovative initiatives and support for businesses.

Norfolk County Council is a four star operating authority providing excellent services together with good partnerships with the Districts. The creation of a Unitary Authority in Norwich would require the establishment, for example, of a separate Social Services Dept, Education Dept and changes to the structure of the Fire Service amongst others which would prove disruptive and unaffordable with the services to residents deteriorating as a direct consequence.

I have to say that I find it totally unacceptable that the Minister can arrive at this bizarre decision since the application fails to meet the necessary criteria laid down by the Government, a fact robustly made by the Senior Civil Servant in the Department. I therefore respectfully ask you to convey to their Lordships that, in the light of comments made by myself and others, the suggestion is that this Statutory Instrument should not receive their support.

19 February 2010

Item 36 - Submission from Cllr John Fuller

I am writing to the Committee in my capacity as Chairman of the Greater Norwich Development Partnership [GNDP], which is the body through which Broadland District Council, Norwich City Council, South Norfolk Council, Norfolk County Council, and the Broads Authority are working together to manage delivery on the Government's housing and job growth targets.

The following comments are my own but are informed by the work in which I undertake as Chairman of the GNDP. The Merits Committee has asked [amongst other points]

- How likely they are to achieve the Government's objectives;
- whether the changes might give rise to unintended consequences.
- whether the estimates of costs and benefits are accurate;
- whether the 'outcome of consultation' accurately represents the various views

In his direction to the Permanent Secretary, Mr Housden, Mr Denham sought to justify his decision to create a Unitary Norwich in the following terms,

“In the case of a unitary Exeter and a unitary Norwich, we consider that each would be a far more potent force for delivering positive economic outcomes both for the city and more widely than the status quo two-tier local government. Economic development - delivering jobs and economic growth for the locality - will in our view remain a high priority for the Government.”

As the Chairman of the organisation that is tasked with delivering the Economic and Housing Growth in the Norwich area to which the Secretary of State refers I would like to draw the committee's attention to the map on the following page [not printed].

It is taken from the GNDP's Joint Core Strategy which has been drawn up to prepare for housing and jobs growth in the area making sure that growth is carefully managed and ensure that future demands for homes and jobs are met in ways that are sustainable and do not detract from the unique character of the area. This document is the overarching

document in the creation of the next local plan for the period 2006-2031. The 50 Committee should note that Norwich City Council is a full member of this partnership.

What can be seen from the map quite clearly is that the principle areas where housing and jobs growth will take place are *outside* the Norwich City Council areas. The Secretary of State asserts that the City Council is best placed to manage economic and housing growth in the wider area but this is manifestly not the case.

In fact, only 3,000 of the additional 21,000 homes planned for the area lie within the City Council area on existing boundaries. The vast majority of Housing and Economic Growth prospects will occur 60 in Neighbouring South Norfolk & Broadland districts, including one of four Eco-Towns planned by the Government.

How likely they are to achieve the Government's objectives;

If the Secretary of State is seeking to see Economic and Housing Growth, then the creation of a Unitary Norwich City Council is not likely to be the best way of delivering the Objective that he relies upon in his Direction to the Permanent Secretary.

With only 3,000 houses to deliver, creating the Unitary would have little impact and in fact risks destroying the only organisation with the responsibility for delivering it. Perhaps Mr Denham was not aware of the critical role formed by the GNDP and the proposed distribution of housing growth when he made his decision. Perhaps other considerations were more to the front of his thoughts.

Whether the changes might give rise to unintended consequences.

The GNDP recognises that the provision of Transport infrastructure 75 is the main block to economic and housing growth and it really makes little sense to split the responsibility for achieving this between the County and City councils.

In practical terms, the County Council is responsible for the delivery of the Norwich Area Transportation Strategy

- construction of the Northern Distributor Road (NDR)
- significant improvement to the bus, cycling and walking network, including Bus Rapid Transit on key routes in the Norwich area
- enhancing the Norwich Park & Ride system
- promoting enhancement of rail services, including improved journey time and reliability to London and Cambridge, and innovative use of the local rail network
- provision of an A140 Long Stratton Bypass
- promoting improvements to the A11 and A47
- supporting the growth and regional significance of Norwich International Airport for both 90 leisure and business travel to destinations across the UK and beyond
- concentration of development close to essential services and facilities to encourage walking and cycling as the primary means of travel with public transport for wider access
- provision of IT links and promotion of home working
- protection of the function of strategic transport routes (corridors of movement)
- continued investigation of and support for rail freight opportunities
- continuing to improve public transport accessibility to and between Main Towns and Key Service Centres

It makes no sense to split responsibility for this service into two organisations, particularly with respect to the ParkandRide system, the most extensive of any city in England, and one of the main reasons that caused the last restructuring process foundered during the Banham Review.

Whether the estimates of costs and benefits are accurate;

I am concerned that the City Council has characterised its financial approach solely in respect of its own finances. It's an 'I'm All Right Jack' approach that fails to consider the effect on the other 700,000 residents of Norfolk.

We know that the Boundary Committee's financial advisors were clear that a Norwich City Unitary Council was unaffordable. Previous Secretary of States took a similar view. But I am not aware of any analysis that has modelled the effect on outlying areas.

For example, it is said that removing the City area from Norfolk County would result in a 20% reduction in income. It is not difficult to imagine how this cut in income would be manifested in cuts to services in the rural areas, where poverty is often more diffuse and it is more expensive to deliver services to sparsely populated areas.

It is not whether the estimates of costs and benefits are accurate but whether the estimates have been produced at all. It is unsatisfactory that they have not been and, even if they had been, that no attempt was made to see whether the 'outcome of consultation' accurately represents the various views; which, in any event, others will have told you that 85% of respondents were against.

I urge the Committee to require that the Secretary of State more fully forms his proposals and takes into account the financial and operational problems that I and others have raised with you.

19 February 2010

Item 37 - Submission from Philippa Grant

I should like to protest about the proposal to increase the powers of Norwich at the expense of Norfolk County Hall. Please do not implement this change!

Myself.

I lived for a decade from 1987 in a family business, Mintlyn Farms, Bawsey, in the area of King's Lynn and North West Norfolk Council. In 1997 I moved to live under South Norfolk District Council control. I have been involved in local government in both places. I am currently on Shotesham Parish Council.

North West Norfolk.

Apart from King's Lynn, this is a very rural area. There are a few large estates, such as Sandringham. Apart from that, there are considerable signs of urban and rural poverty.

Kings Lynn became a London overspill town after World War II. Some of its estates, eg Fairstead, still show divisions between Londoners & the indigenous Norfolk. In general, King's Lynn's industry does not satisfy the local need for employment. North West Norfolk has characteristically low achievement in educational standards. There are Father-to-Son family businesses which sidestep the need for qualifications. But limited education limits possibilities. There are also remains of the inbreeding in the Fens – King's Lynn Polytechnic has a large Special Needs programme for educationally subnormal young people.

South Norfolk.

This area borders on Norwich, making use of its greater job opportunities. The population in general is middle-class, aspiring, ambitious and better-off. My current village, Shotesham, is a conservation village with several consultants employed at the Norfolk & Norwich University Hospital. The housing in South Norfolk generally reflects a higher standard of living.

Rural Norfolk county-wide.

My examples – two districts in Norfolk well known to me personally – are only part of the county picture. King's Lynn in the West has differing needs from Yarmouth in the East. Breckland and Broadland also are areas with distinct characteristics. They all need to be administered by a strong Norfolk County Hall, in addition to well-informed District Councils.

Increased powers to Norwich.

A fully self-governing Norwich would weaken Norfolk County Hall, diminishing its budget and its powers generally. The thinking behind this proposal inevitably lumps the rest of Norfolk into one undifferentiated mass. It has been dubbed the notorious "Doughnut model": Norwich versus the rest. Everyone I know living in rural Norfolk strongly opposes such unfair legislation. Indeed, we were told it was against public policy!

Conclusion.

I call on the House of Lords to reject the Norfolk and Norwich (Structural Changes) Order 2010.

February 2010

Item 38 - Submission from Great Yarmouth Borough Council***Introduction***

Great Yarmouth Borough Council has consistently held the view that the existing structure of local government in Norfolk serves its people well and that opportunities for joint working and shared services would offer equal value for money without the need for expensive and disruptive structural change.

We do not believe the case for change was proven by the Boundary Committee and opposed proposals for a unitary county.

Equally we do not accept the Secretary of State's rationale for creating a unitary Norwich, a proposal that clearly does not meet the criteria laid down under either the original or revised process.

We are the second largest population centre in the County and have significant areas of deprivation and high levels of unemployment. We are extremely concerned that under these new proposals the County Council will have fewer resources to dedicate to Great Yarmouth and may adopt an increasingly 'rural' focus. This could have a very detrimental impact on the regeneration of the Borough and the life opportunities of our most vulnerable residents. The evidence of 'unintended financial consequences' is provided in the next section of this submission. This evidence has been compiled in collaboration with the County Council.

We also believe strongly that the creation of a unitary Norwich will prove a huge distraction for both Norwich itself and the County Council. It will suck resources away from job and wealth creation (part of the rationale for the decision) and the delivery of better value for money – both absolutely essential in the current economic climate.

Evidence: Unintended Financial Consequences***Financial position of the remainder county***

This order is different from the orders made in 2008 for other areas. It is unique in that it does not create unitary rural county councils for Norfolk and Devon to complement the new unitary city councils for Norwich and Exeter. Instead, the order simply reduces the area of the existing county councils. The implications of this for the affordability of the remainder county councils are not adequately considered.

Unlike unitary county councils, the reduced counties will not have the potential opportunity to generate efficiencies from combining county functions with several district councils, which could create economies of scale. Rather, they will suffer diseconomies of scale. In information supplied to Norwich City Council for its initial bid in December 2006, the County Council estimated the cost of diseconomies of scale for the new county at £6.5m a year. Having regard to inflation the cost could now be £9m a year.

At the end of Annex D to the Impact Assessment, the section “Rural Proofing” acknowledges concern “that there could be disproportionately less resource/capacity available to the County Council to deliver services, which could have a higher unit cost, or a smaller, more rural population” and states that “the Government is committed to achieving a fair and transparent process of disaggregation of resources”. The current methodology for the distribution of Revenue Support Grant is strongly influenced by urban deprivation factors. Rural deprivation factors are more difficult to define and are poorly reflected in the formula. It is likely that a “fair” disaggregation would nevertheless see a disproportionate reduction in the funding available to the remainder county to cover the higher unit costs of services and the costs of diseconomies of scale. It may become unaffordable for the reduced county to continue the current level of service in historic Boroughs and in rural areas.

Affordability in the current economic climate

The proposal for a Norwich unitary was unaffordable three years ago and remains so. Further, the scale of that unaffordability and the financial risk of the proposal is certainly more severe than before.

The challenges of diseconomies of scale will constrain the potential for efficiency at a time when the Government is looking to local authorities to generate more efficiencies. The need for efficiency savings will be necessitated by both downward pressure on Council Tax and restrained grant settlements.

This position was summarised by Barbara Follett on 26 November 2009:

“ . . . I expect to see the average council tax increase fall to a sixteen year low next year while councils protect and improve front line services. Already many councils are predicting freezes or cuts so this can be done.

“In the current economic climate, the public expects government to be acting smarter with their money. Keeping council tax under control is a top priority for government which is why it will not hesitate to use its capping powers again to protect taxpayers from excessive increases.

“But we and the public also expect councils to play their part and find efficiency savings that make each taxpayer’s pounds work as hard as possible. Local government has an excellent record saving £1.7bn this year and next year I want to see them build on that . . .”

Unintended consequences

The financial consequences for the County Council may be unintended and are certainly unclear:

- The Impact Assessment does not include any separate quantification of the financial impact on the remainder county council. The financial position for the pattern as a whole is summarised, without showing the position for the city and county separately.
- Norwich's submission of new figures in the period for representations (20 December 2009 – 19 January 2010) was not made available to Norfolk County Council for review or comment. The Secretary of State has therefore received no confirmation from the County Council that the figures are reasonable or the financial projections achievable.
- The Explanatory Memorandum acknowledges at paragraph 7.16 that the proposal has not satisfied the affordability and value for money criteria. It cites alternative benefits, but these are phrased from the point of view of Norwich in particular. There is no specific explanation of the compensatory benefits to Norfolk County Council and its tax payers of implementing an unaffordable proposal that does not achieve value for money.
- The Government's policies and targets on grant settlements, council tax and efficiency in local government have all tightened since 2007. The new Norwich city unitary and smaller Norfolk County, created under a proposal that is unaffordable and does not represent value for money, will struggle to deliver the government's financial requirements under this stricter regime. There has been no specific assessment as to the risk of implementing the Norwich unitary proposal in this context.
- It is not clear how the Government intends to make up the shortfall to fund the new unaffordable authorities that do not provide value for money.

February 2010

Item 39 - Submission from Cllr Shelagh Gurney

Following last week's announcement that it is now the intention of the Government to create a new Norwich Unitary Council in 2010, I make the following comments as an individual representing the views of my residents.

The majority of residents in Hellesdon that I represent as a County, District and Parish Councillor, are totally opposed to this decision. They tell me quite categorically what they think of this!! The practicalities of un-picking services such as Education and Social care will cause great disturbance to those who are most vulnerable. This is just too costly for us, when we still, today in Norfolk have rising unemployment and more people losing their homes.

The evidence on two criteria, - affordability and value for money is clear and not confusing. In 2007 the proposal for a Norwich City Unitary Council was judged by the Government to **fail** these two important criteria. Figures for this have never been updated nor changed. They are nearly four years out of date and have more than likely deteriorated with the current economic recession. Savings that may have been used for transitional costs have long been exhausted! It beggars belief that it has in the past determined that this proposal is unaffordable, and yet now wished to implement this flawed system.

My residents are concerned that this fragmentation will lead to an inequality in service delivery, where those on one side of the road, in the City, receive services which are not of the same standard or quality in the County or vice versa, We want services in Norfolk that are equitable and affordable. We want schools that offer a consistent standard of Education.

The decision of the Secretary of State to grant this proposal is in my residents' opinion and mine a serious case of abuse of position and Parliamentary process and should be investigated immediately.

Ignoring the recommendations of the Independent Boundary Committee, who have over the last three years carried out a thorough investigation and consultation process into unitary solutions for Norfolk, is a serious and questionable matter to say the least.

The Secretary of State also goes against and ignores the qualified advice from his permanent Secretary that the Norwich Unitary option on existing boundaries does not offer value for money. Such is the concern of the permanent Secretary that he wants written instructions (as a security?) before he will go ahead with the proposal. This must surely raise some serious questions?

The Secretary of State even has the audacity to admit that his solutions do not meet the Government's own criteria regarding a Unitary solution for Norfolk. So why, if it clearly does not make any sense by his own admission, do we find ourselves in this unacceptable position?

There is much research that suggests that structural changes such as those embodied in this Statutory Instrument lead to a dip in performance as limited staff time is devoted to planning and implementation of transitional arrangements. Our residents are used to high standards of service delivery for their council tax and do not wish to see this situation deteriorate.

I would politely urge your Lordships to seriously consider the evidence of this exercise. It is grossly flawed and not what the people of Norwich want. Come here and ask us - we have not had a referendum!!

I consider this decision to be a serious case of Parliamentary abuse by the Government and sincerely hope that you will reach a likewise conclusion, voting against the Statutory Instrument that will be laid before you.

17 February 2010

Item 40 - Submission from Hempnall Parish Council

We are sending in a statement of our position on local government reorganisation - often stated - i.e. support for status quo - no Norwich or Norfolk unitary.

February 2010

Item 41 - Submission from Baroness Hollis of Heigham

I fully support the Government's proposals. For 600 years until 1974, Norwich was a county borough (unitary council), working well with the County Council, and only narrowly failed to become a unitary authority again under the Banham Review in the mid 90s - when other authorities, smaller than Norwich (such as Hartlepool) were granted unitary status. I served on Norwich city council when it was previously unitary; I was leader during the 1980s; I also served as a Norfolk county councillor, and I am a DL. I firmly believe that the Government's proposals will benefit Norfolk and Norwich alike.

Why?

I believe city and county are different, and need different local government structures. For Norfolk, a two tier structure may make sense – as it is a large, sparse rural county with extremes of both rich and poor; and with relatively low council tax and relatively more modest levels and expectations of service. Essentially it seeks, understandably from the County point of view, to standardize services across the County – which means imposing rural standards on a densely populated and progressive urban city. To give just one current example – Norfolk county council is proposing that from next year all the County streets lights should be turned off between midnight and 5 am – with the exception of only a few city centre streets. As one county councillor put it, if you go to bed at 10pm, why do you need street lights? This may be a reasonable approach in the Fleggs – in Norwich’s large council estates it will be disastrous.

Cities like Norwich need unitary structures. It allows focus, and more effective delivery of otherwise disjointed services. Very many of the social policy issues coming up in the lift – bringing lone parents back into the labour market, supporting the frail elderly in their own homes, helping the “NEETS” young people to find training and work, overcoming profound disadvantage on our poorer estates, all require integrated service delivery. Norwich after all provides 42% of Norfolk’s jobs : if the City thrives, then so do Norfolk people, especially the unemployed, who benefit directly from a unitary city that is green, progressive, energetic, innovative, and outward looking. .

At the moment, Norwich is trying to address issues of deprivation and the need for economic development with one hand tied behind its back. Currently some services which should be together, such as housing and social services, are split between the tiers; other services such as planning are concurrent; still other services overlap, such as environmental health and weights and measures; and yet other services are done by agency. Voters cannot know who does what, to what standard, and at what cost. Unitary structures locate services, responsibility and accountability in one place, City Hall; and position it to offer economic development for the good of City and County alike.

How will it work in practise?

It worked well before 1974 – the City pioneered the Theatre, the airport, the City College – and the County later bought in. Given partnership arrangements on the one hand (as we have always enjoyed with museums and libraries); and given the continued purchaser/provider split, on the other – which means that services are contracted out and therefore the size of the local authority matters far less than in the past, I am confident that the structures will work well.

Will it achieve the government’s objectives?

As I have already suggested, in terms both of social policy and economic development, a unitary Norwich will not only further the Government’s objectives within the City but help to further them in the County as a whole. Norfolk desperately needs a vibrant Norwich. We have huge economic potential, which is frustrated by our current structures.

Has sufficient time been allowed to implement the change?

Yes. As there are no re-drawing of boundaries, it is relatively straightforward. I was on the city-county committee that handled the 1974 transitions – policy apart, the practical arrangements were easily handled. The City is geared up and ready to go. It has strong competent leadership. All parties, after all, have been working on reorganization proposals for the last 3 years.

Are the estimates of costs and benefits accurate?

I have worked through the background papers, and believe that there is a very strong financial case. Upfront costs will be recovered within three and a half years, and thereafter we continue to make savings of some £4.4 million pa.

Does the consultation faithfully reflect local views?

The City and the County's views are irreconcilable on the matter of re-organisation. The County wants the City rate while providing rural service levels to the City. The City in turn believes that some of the most deprived in City and County are short-changed as a result. The County describes a unitary Norwich as ripping the heart out of Norfolk – as though the City is re-locating to Siberia, when instead it will re-invigorate Norfolk's economy. Inevitably, as the County is more populous, there may be more rural representations than City ones. Voluntary organizations tell me privately that they would welcome a unitary Norwich as well as a Norfolk county to turn to for support and innovation – but they fear loss of county grant if they say that in public. Business and the University have so far supported unitary Norwich as do the residents of Norwich itself.

I would hope the Merits committee will send these Regs to the floor of the House with their approval.

February 2010

Item 42 - Submission from Keir Robert Hounsome

I am Keir Robert Hounsome, a solicitor currently employed with the Broads Authority. Between 1984 and 2006 I was employed by Norfolk County Council in a succession of posts including, for the period from October 2000 to September 2006, the position of the Council's Head of Law and Monitoring Officer.

Members will be aware that the purpose of the Norwich Order is to create a unitary authority covering the City of Norwich. The Committee will wish to note that Norfolk County Council has issued Judicial Review proceedings against the Secretary of State or Communities and Local Government (the "SoS") alleging that the SoS has acted unlawfully. I too believe that the SoS has acted unlawfully and wish to explain any reasons to the Committee.

Acting contrary to legal advice from the Secretary of State's own legal advisers

The SoS was warned by his most senior civil servant, Peter Housden, the Permanent Secretary), in a letter dated 8 February 2010 that

"my clear legal advice is that the risk of decision for a unitary Norwich being successfully challenged in judicial review proceedings is very high".

As a result of this the Permanent Secretary asked for a written Direction from the SoS to lay the draft Norfolk Order. According to a response to a PQ from junior communities and local government minister Barbara Follett, this is the first time this has happened in DCLG's history.

Acting contrary to the Human Rights Act

In paragraph 6 of the Explanatory Memorandum to the Norwich Order the Minister asserts that its provisions are compatible with the Convention rights. Again, in the impact assessment that accompanies the Norwich Order it is asserted there will be no human rights impact. The Norwich Order states in paragraph 11 that Norwich City elections will be cancelled in 2010. This is an unlawful interference with the Norwich electors' (of whom there are just under 100,000) right to freedom of expression protected by Article 10

– unlawful because the SoS’s decision to implement unitary government in Norwich has been taken contrary to the requirements of the Act and his own specified criteria.

Failure to carry out statutory consultation with stakeholders

The Local Government and Public Involvement in Health Act 2007 (the “Act”) provides in Section 7(3) that the SoS may not make an order to implement a proposal for a new unitary authority unless he has consulted every authority affected by the proposal and such other persons as he considers appropriate.

Whilst it is true that the SoS consulted with stakeholders on the Norwich Unitary proposal in March 2007, that consultation was based on criteria set out in paragraph 29 of the DCLG paper *Proposals for Future Unitary Status: Stakeholder Consultation -*, which states:

‘We are seeking your views on the extent to which the proposals, if implemented, will achieve the outcomes specified by the criteria in our Invitation’.

Throughout the consultation process and indeed right up until the announcement on 10 February 2010 much was made by Ministers, DCLG and the Boundary Committee about the paramount importance of the five criteria. I am aware that a letter from DCLG to the affected local authorities on 7 December 2009, reiterates the position set out in an earlier letter sent in June 2009 which stated:

“Irrespective of whether the Boundary Committee makes any alternative unitary proposals, the Secretary of State will consider whether the view reached on the original unitary proposal on 5 December 2007 - namely that it would not be reasonably likely, if implemented, to achieve the outcomes specified by all the five criteria - should be changed. The Secretary of State will also consider whether the original unitary proposal would have the capacity to deliver the outcomes specified by the criteria, if it were to be modified”.

When DCLG wrote again to the affected authorities on 6 January 2010, the letter contained nothing to suggest a change of position on the central importance of the criteria.

Nobody was consulted on the change of criteria and so the consultation was inherently and fundamentally flawed.

Failure to meet the five criteria

Communities and Local Government Minister Rosie Winterton acknowledged that the Norwich bid does not meet the criteria of affordability and value for money in her written statement to the House on 10 February 2010 and in correspondence between Peter Housden and the SoS in the same week.

Action contrary to the advice of the Boundary Committee, independent advisors appointed by the SoS to advise in relation to Unitary proposals

In July 2007 the then SoS indicated that she would ask the Boundary Committee of the Electoral Commission to advise on certain matters relating to the unitary proposal relating to Norwich as she felt there was no reasonable likelihood of Norwich’s proposal meeting all the outcomes specified by the 5 criteria. The BC recommended on 7 December 2009:

‘that the original proposal for unitary status for Norwich City Council is not implemented. The recommendation is made on the basis of the Secretary of State’s previous concerns about that authority’s ability to meet the affordability criteria, which was not displaced by any evidence received by us during this review, all of which we took into account’.

Despite the weight of advice from within his own Department and the Boundary Committee, the SoS still went ahead and laid the Norwich Order.

Recommendation

I would urge the Committee to recommend that the Order be not made or, alternatively, that no debate on the Order should be held until after the judicial review proceedings have been concluded.

February 2010

Item 43 - Submission from Lord Howarth of Newport

I am responding to the call for evidence by the Merits Committee on the draft Structural Changes Order for Norwich and Norfolk.

I am a resident of Norwich. I have followed closely the local debate in Norwich and Norfolk over the various proposals for local government reorganisation within Norfolk.

I note that the Committee does not intend to review the merits or demerits of the policy proposal to create a unitary Norwich, although undoubtedly these will be debated when the Order is considered by each House. I would only say now, therefore, that, from my knowledge of the practical preparations that have been made with great care over a considerable period by Norwich City Council for the eventuality of the Secretary of State agreeing to Norwich's proposal for unitary status, I have no doubt whatsoever that the transition will be managed efficiently and effectively on the part of Norwich City Council within the timescale set down in the draft Order. None of what is proposed in the draft Order is impractical. While some in Norfolk County Council have aggressively opposed the change I do not expect them to defy the law or to obstruct the transition or to do other than cooperate as required.

It will be important that consideration by both Houses of Parliament is completed in time for the elections otherwise due on 6 May to be prevented.

February 2010

Item 44 - Submission from King's Lynn & West Norfolk Borough Council

The Committee invited concise written evidence by 18.00 on Monday 22 February 2010 on any or all of a number of points. We have attempted to provide our views succinctly against each point, which as you can imagine has been a challenge given the tortuous, drawn-out and at times incredulous process that we have been involved in – against our will - for more than three years.

We can firstly summarise our position by quoting 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 the county argues for the two-tier arrangement". This is our argument against such change in a nutshell: good in theory, unworkable in practice.

How it is anticipated that these Unitary Authorities will work in practice

This is an issue of concern to our council insofar as the changes the re-configuration of the County Council and its operation has on the people of west Norfolk. Because the Secretary of State has decided to implement the original Norwich proposal, where there was no need to consider or evidence the implications for the rest of Norfolk, this remains unknown and, critically so far as we are aware, unplanned.

How likely they are to achieve the Government's objectives

Given that the stated reason for departing from the Government's own guidance and criteria was the desire to meet the priorities of 'jobs and economic growth', our concerns

with the proposal as it stands is simple: a unitary Norwich based on existing boundaries excludes the locations in which most of the economic and housing growth is planned to take place as they fall outside the city council boundaries. The economic success of Norwich will, therefore, be less a consequence of its becoming a Unitary Council and more due to its ability to successfully work with a County and the adjacent district councils. Surely this is the same situation that the impact assessment on page 11 of the explanatory memorandum states the proposal is intended to overcome.

Whether sufficient time is allowed to implement the changes

Any change should be implemented so as to strike an appropriate balance between minimising disruption and ensuring the transition is successful. Our concern, whatever the timescale, is about the damage that this tortuous process has done to relationships between the City council and the remainder of Norfolk's councils, and therefore whether a successful transition is possible at all.

Whether the estimates of costs and benefits are accurate

We fundamentally believe that the costs of change are understated and the anticipated savings overstated. We have particular concerns about the Secretary of State's suggestion that the changes in the economic climate are a key reason for going against the assessment criteria. Firstly, the proposals continue to rely on out of date base data from 2007/08 which has not been updated. Secondly, we are surprised that the Secretary of State has not followed the advice of the Boundary Committee's own independent financial consultants who pointed out a number of areas where they recommended the Secretary of State sought further assurance for themselves.

We believe that the financial case for the proposal has not been made despite the comment that Norwich submitted updated information prior to the 19th January that was subsequently verified by the Department's independent financial consultants (page 22 of the explanatory memorandum). This information cannot have covered the impact on the remainder of Norfolk as the financial (section 151) officers of the Districts have not been asked to supply further information.

We conclude that prior to any decision to implement the proposal being taken there remains an absolute imperative to re-work the financial case based upon up to date post-recession figures, agreed by the City and the County and covering the whole of Norfolk.

Whether the 'outcome of consultation' accurately represents the various views

There is simply no evidence of public support for a Norwich unitary council and this has been the case throughout this process. We commissioned an independent, Norfolk-wide Ipsos-MORI poll which included an enhanced sample in Norwich; 65% of people wanted to retain the status quo and even in Norwich itself support for a unitary was only 24%. Also important is the lack of support for a Norwich unitary by other public and private sector organisations.

Whether the changes might give rise to unintended consequences

We do not consider that the impact of removing the Norwich tax base from the county of Norfolk has been accurately or properly assessed in terms of service cost and quality and impact on council tax for the remainder of Norfolk. The proposals from Norwich City Council didn't consider the impact on the rest of Norfolk if it remained two-tier, such as how the county council would organise and deliver its services. Without this knowledge it is surely impossible to judge the impact of this proposal on the rest of the population of Norfolk - the majority of people, over 700,000 - particularly in terms of value for money.

The implementation of any plan or scheme, when as unplanned as this one (ie the plans only exist so far as the transition to the new City council are concerned and not for the

remainder of the very large county of Norfolk) will surely lead to unintended consequences. Our concern is that this will be to the considerable detriment of the local taxpayer.

We have appended a copy of our twenty-page submission to the Secretary of State which sets out our concerns in more detail [*not printed*].

22 February 2010

Item 45 - Submission from Norman Lamb MP

I have serious concerns about the proposed Statutory Instrument and I wish to make three specific points which I set out below:

1. The proposal set out in the Statutory Instrument is at complete variance to the outcome of the Boundary Committee's process and the due diligence undertaken by the Boundary Committee. The Boundary Committee completed a very thorough review and came up with specific recommendations which have been ignored by the Secretary of State.
2. The recommendation which the Statutory Instrument seeks to give effect to is at complete variance to the original criteria provided for by the legislation which gives powers to the Secretary of State to consider reorganisation of local government. It appears as if the Secretary of State has ignored all reasoned advice and has come up with a proposal which neither meets the original criteria, nor the advice given to him.
3. The proposal provided for by the Statutory Instrument has been judged to create a significant risk to the public purse and to the provision of statutory services. This was confirmed in a letter from the Permanent Secretary to the Secretary of State. Given the clear advice of the Permanent Secretary, this proposal cannot be regarded as a reasoned use of powers given to the Secretary of State by the original legislation.

In summary, this appears to be a perverse recommendation. The risks involved in proceeding with the Statutory Instrument are significant and it fails to meet the criteria provided for by the legislation.

I do hope that the Merits Committee will see fit to voice its concerns about this Statutory Instrument's significant departure from what was contained in the enabling legislation.

22 February 2010

Item 46 - Submission from Cllr Trevor Lewis

I am a Liberal Democrat councillor on South Norfolk Council.

I am in favour in principle of unitary local government.

I regret the incompetence of the Boundary Committee in failing without any good reason to support any of the workable unitary patterns for Norfolk (2, 3 or 4 unitaries) that emerged from the initial consultation.

I agree that a single all-Norfolk unitary could work on paper, but I believe that its size, spread and power would be anti-democratic.

I cannot understand how the government is minded to support a 'Norwich in its own boundaries' unitary - there is no good financial case, and in any case councils are currently

shaking out huge savings on current structures in anticipation of a future cut to RSG. A Norwich unitary that excluded much of its northern suburbs would be bizarre.

My main concern, however, is the consequential structure for the rest of Norfolk - unreformed district councils which will relate to a new Norwich-free County Council. This new County Council will have no logical physical shape, and will be weakened by having to hive off a large slug of its resources to create the Norwich Unitary. It is not a price worth paying for giving Norwich what it wants, and has clearly not been thought through.

February 2010

Item 47 - Submission from Little Melton Parish Council

The decision to make Norwich a unitary authority on its current boundary seems to us to be the worst possible outcome. One can only assume that it was either taken by someone not familiar with the actual boundary of Norwich or was intended to preserve Norwich City as a Labour Controlled authority.

The Wikipedia entry for Norwich states - "The built up area of Norwich extends far beyond the city boundary, with extensive suburban areas on the western, northern and eastern sides, including Costessey, Hellesdon, Old Catton, Sprowston and Thorpe St Andrew. The parliamentary seats cross over into adjacent local government districts. 135,800 (2008 est) people live in the City of Norwich and the population of the Norwich Travel to Work Area (i.e. the area of Norwich in which most people both live and work) is 367,035"

Much of the new housing proposed for Norwich will lie outside of the City – see:

http://www.norfolk.gov.uk/consumption/groups/public/documents/general_resources/ncc028134.gif

The Norwich Research Park is scheduled for major expansion but is outside of Norwich City.

The archaic Norwich City boundary will lead to an even more fragmented approach to the provision of things like cycle paths which need to connect people's homes to places of employment - regardless of where Civic boundaries fall. A unitary Norfolk may have led to more joined up thinking.

Norwich City will not be big enough to provide proper services as much of the higher rated properties lie outside of its boundary. It will have all the inner city problems and insufficient resources to work with.

We are appalled at the amount of money that has been wasted on this exercise only for a minister to ignore the recommendations of the Boundary Committee. A lot of time was spent making our views known to the Boundary Committee. This result does not feel like a democratic process to us.

February 2010

Item 48 - Submission from Lord MacGregor of Pulham Market

This submission is on an individual basis. I was Member of Parliament for South Norfolk for twenty-seven years until 2001, and am still resident and very actively involved in many activities in Norfolk.

This is an astonishing decision taken at the last minute before the General Election. It comes after four tortuous years of consultation and consideration, and flies in the face of most of the responses and recommendations. Detailed points follow.

How will the Unitary Authority work in practice?

The omens are poor. The Audit Commission has in recent years criticised Norwich City Council's financial management as not being fit for purpose, there has recently been a housing scandal in the Council, and the Boundary Commission itself, in finding against Norwich's unitary bid, described the bid's financial details as unreliable. Norfolk County Council is deeply opposed to the bid and it is not easy to see how a sensible *modus operandi* will be achieved in the consultations in the coming year.

How likely is this to achieve the Government's objectives?

Not at all. First, there is Norwich City Council's poor record. Second, the Boundary Commission itself, and the previous Secretary of State, turned this proposal down on affordability and value for money grounds. Third, the Permanent Secretary and Accounting Officer has set out to the current Secretary of State in his letter of 8th February, 2010, his concerns about value for money, affordability and feasibility, and therefore requested a Written Instruction. Your Committee will have the text of the letter, so I do not need to repeat the points made. But I would stress that, in my Parliamentary and Ministerial experience, I have rarely seen such a strong letter; ("the approach you are currently proposing makes it difficult for me to meet the standards expected of me as Accounting Officer" and "The probably nugatory expenditure which this (judicial review) would entail ... could only exacerbate the worries I have described about value for money.") The Secretary of State's response was extremely weak. He considered that a unitary Norwich would be a far more potent force for delivery positive economic outcomes for the city, ignoring the fact that most of the economic and other developments envisaged in current plans, including housing, will take place outside the city boundaries; and he gave no evidence for his view that it could open the way for improvements to the quality of public services.

Is sufficient time allowed to implement the changes?

Hardly. The Permanent Secretary referred to the risk of the decision being successfully challenged in judicial review proceedings as very high, and the Secretary of State acknowledged this. Norfolk County Council is seeking such a review. The Official Opposition have stated that, if the Conservatives win the General Election, they will reverse the decision. Meanwhile, the voters in Norwich City are being deprived of their own local authority election, which should occur in May. All the elements are in place for a chaotic twelve months or so of uncertainty and fraught administration.

Does the 'outcome of consultation' accurately represent the various views?

Not at all. The majority of local authorities and of Norfolk public's (as shown in polls) views are against it.

Do the changes give rise to unintended consequences?

It is hard enough to see what the intended consequences are, let alone whether they will be achieved.

I believe that all the ingredients are there to justify a full Debate in the Lords on this matter.

22 February 2010

Item 49 - Submission from Joe Mooney

I am writing to inform you that I am opposed to the above proposal for the following reasons:

It goes against all the advice given to the Government by the Boundary Committee and other groups.

It fails to meet the Governments original criteria on affordability etc.

It would split up current county services. I am particular concerned that if the social services were split up it could lead to a situation where the risk of a baby P case happening in Norfolk would increase.

This is a politically motivated proposal. I ask you to reject them for the reasons outlined above.

February 2010

Item 50 - Submission from Cllr Paul Morse

I am the Leader of the Liberal Democrat Group on Norfolk County Council, the second largest political group and official opposition. I am deeply concerned about the way this decision has been made, departing from the established criteria and against senior civil service advice. I realise that you will probably be receiving many submissions on these points, such is the local outrage, and I am therefore confining my comments to the nonsense of the rationale provided by the Minister for Local Government for coming to this decision, which does not stand up to the slightest scrutiny.

The Minister for Local Government on 10 February 2010 in announcing the establishment of Norwich as a unitary authority contended that the rationale for the decision was that the Government's priorities have shifted towards the creation of *jobs and the promotion of economic growth*. This was the justification of the abandonment of the value for money and affordability criteria which were integral to the decision-making process in relation to local government reorganisation. The affordability and value for money criteria were key elements as recently as 7 December 2009.

The Liberal Democrats have not seen any evidence that supports the proposed unitary status for Norwich achieving this new priority. Norwich's boundaries are drawn very tight. They do not encompass the adjacent urban areas to the North of the city and the actual economic footprint of the city extends far wider than these. As a consequence there is an interdependency between the city and its surrounding areas that is essential for successful economic planning and development.

Many of the major infrastructure projects necessarily sit outside the city boundaries and the vast majority of planned growth is also outside them. The Boundary Committee acknowledged this interdependency in its draft proposals report of July 2008 when it said: *'This capacity to reflect interdependencies particularly applies to the links between Norwich and its wider sphere of influence in the county. The evidence available to us suggests that the economic, social and cultural reach of the city extends far beyond its immediate borders, in some cases to the coast, the county boundary and beyond'*.

Norwich City Council itself chose to highlight this in its bid for unitary status in 2007, saying "The City boundary is widely recognised as too tightly drawn' and 'The extended boundary model would offer a more coordinated approach to the economy, growth, transport, deprivation, community development, and efficiency of the whole City'.

This draft Order will not remedy those issues or give effect to the Minister's new rationale for overriding the criteria to which everyone had been working.

As a consequence, the draft Order will not facilitate the creation of jobs or the promotion of economic growth for the following reasons:

Housing growth

The Norwich Policy Area (NPA) (please see attached map at Appendix A [not printed]) is an area specifically designed by the four authorities involved, including the City Council, to deal with growth related to Norwich, yet only 14% of that growth will be in the City area. Norfolk County Council has calculated that as even fewer brownfield sites become available, an even smaller proportion of the area's growth will be in the city after 2026. The strategy for the NPA has been developed jointly by the same four authorities.

The NPA is estimated to grow by some 23,000 dwellings in the period 2008 to 2026. Only 3,000 of those dwellings are expected to be within the Norwich City boundary. To put the City's growth into context, 2,200 dwellings are proposed for the market town of Wymondham; the scale of growth that the City can accommodate is broadly equivalent to a market town.

Jobs

Clearly, there is a need for any agenda on jobs and growth in the Norwich area to support this expected expansion of the population in the NPA. The sites for these jobs are predominantly outside the City area. The major sites are:

- UEA/Norwich Research Park. - while UEA is in Norwich, the Research Park is in the district of South Norfolk. The first phase is for 55ha of growth in South Norfolk and further phases of science park development will also be in South Norfolk
- Broadland Business Park (extension) 25ha – which is in Broadland council area
- Longwater Business park (consolidation of existing) – South Norfolk council area
- New development in Wymondham including 15ha – South Norfolk council area
- Expansion of Hethel plus a technology park of 20ha – South Norfolk Council area
- New employment development to serve major growth locations (all in South Norfolk or Broadland) including around 25ha at Rackheath (Broadland)
- A new business park associated with the airport of 30ha – the land straddles the boundary between Broadland and the City and some current proposals are entirely within Broadland, no proposals are entirely within the City.
- The City Centre (Norwich) will include 100,000m² of new office space.

Forecasting where the jobs will lie in relation to districts is not straightforward but it is predicted (using the East of England Forecasting Model) that only 30% of new jobs will be in the City in the period to 2031.

Enhanced economic growth

A future enhanced economic status for Norwich is not dependent on whether the existing district council becomes a unitary council, taking on additional social care, education and transport powers.

The sustainability of growth across Norfolk will depend on addressing the linkages between places, planning the timing and phasing of growth to best effect and understanding the reliance on the same essential strategic infrastructure. Introducing a unitary council in Norwich shows ministers' lack of recognition of the important interplay between rural and urban communities and the functional linkages between places.

Norfolk County Council has built a successful approach to sector development which helps to sustain and develop the knowledge economy and key sectors for economic growth. Strong business engagement has been a critical element of this approach. This could be lost if artificial boundaries are put in place which could limit the level and breadth of business engagement, and consequently constrain business growth.

The Boundary Committee in their recommendation in December 2009 endorsed the Norfolk-wide approach for the strategic leadership to achieve the policy outcomes.

There has been no significant change since December 2009 that should cause Ministers to favour a Norwich unitary authority as a solution to increasing jobs and economic growth.

In summary, the proposition that a unitary city will support jobs and economic growth is not supported by the facts. It is Norfolk County Council and its partner, Shaping Norfolk's Future (an economic partnership comprising over 300 businesses) that have together led and delivered the programmes that are so vital to achieve a step-change as well as the necessary growth in the Norfolk economy.

I attach a separate note at Appendix B [not printed] which sets out the initiatives which are benefiting Norwich under existing arrangements.

I urge the Merits Committee to recommend that the draft Norwich and Norfolk (Structural Changes) Order be not made.

February 2010

Item 51 - Submission from NHS East of England

I submit this letter in response to your call for evidence regarding the plans to reorganise the local government structures in Norfolk.

I respond on behalf of the NHS east of England – the regional health authority that oversees the work of the NHS across the east of England and performance manages the primary care trusts in Norfolk and Suffolk.

We co-ordinate and manage the health care needs of the 5.6 million people who call this region home. We employ 125,000 people in 41 different organisations across the 6 counties working with 11 upper tier local government structures.

In all our dealings with local government structures we will always seek to manage relationships with whatever boundaries exist or are determined. Across our region we have a mixture of county, unitary and district authorities and in all instances our relationships are positive – seeking best for our shared community.

The closest relationships occur, however, between the primary care trusts and their upper tier local authorities as there is a need for a joined approach in the areas of adult health and social care and children's services particularly.

Our primary concern in promoting the proposals for a single unitary authority for both Norfolk and Suffolk was to secure a co-terminosity of boundary for health and local government provision. All our experience shows is that to have mismatching boundaries involves the public agencies in wasteful activity demonstrating who the lead agency for a geographical area is. The ability to build strong partnerships for a community in common cannot be underestimated.

Our evidence to the Boundary Committee reflected our overriding concern in Norfolk and Suffolk to ensure the best possible 'fit' for closer working to improve all aspects of health and well being and to jointly commission and provide services. Strong partnerships that deliver real practical benefits to our communities take time to develop and changes of this

nature are likely to disrupt these for a significant period of time which will have a detrimental impact on services.

It is our experience that an alignment of health and local government boundaries enables much stronger partnerships. Strong partnerships with the county council in Norfolk have already been developed with considerable progress in joint planning, commissioning and delivery of health and social care in particular. The health and social care system in Norfolk is already progressing a national pilot scheme on integrated commissioning of care for the frail and elderly with quality improvements and efficiency savings identified as key outcomes. Joined service developments in this area alone are likely to be impeded by boundary changes.

It is also anticipated that the Norwich Unitary proposal will lead to a dismantling of the current adult and children social services department. This would be disruptive and require the recruitment of additional high calibre leadership which is likely to incur additional costs as well as taking some time to achieve.

Work to support a joint strategic needs assessment informing the local area agreement has been undertaken and the establishment of joint priorities for improving the health and well being in the area is agreed. The alignment of priorities and the agreed shared evidence base is of fundamental importance to partnerships working to improve health and well being it also leads to significantly stronger arrangements for safeguarding children and vulnerable adults.

As the regional health authority it is not appropriate for us to comment on the details of how local government will organise its functions, how accurate the costings are or whether they meet government objectives.

We do however reflect that in order to minimise the possible disruption to services it will be necessary to enable the local authorities and the primary care trusts to adequately plan and re-configure service arrangements where necessary if the proposed structural changes are finalised.

The health authority and the primary care trusts will endeavour to ensure a seamless transition to the community in Norfolk but the greater opportunity for joint planning he greater the likelihood of success.

I trust that this submission is of value to the committee; our previous submissions can be made available if required.

22 February 2010

Item 52 - Submission from NHS Norfolk

NHS Norfolk is responsible for improving the health of the Norfolk population (excluding Great Yarmouth) through

- Commissioning Health service provision from other bodies e.g. Hospitals, GP's and pharmacies
- Direct provision of community services
- Working with partners such as local authorities and voluntary organisations

We are responsible for a population of 750,000 and a budget of £1.1 billion

Our concerns on the unitary changes cut across the six suggested areas of consideration but essentially can be considered under

“Whether the changes might give rise to unintended consequences.”

We currently have established joint working arrangements with the current local authority including but not limited to:

- a jointly appointed Director of Public Health post,
- integrated planning processes in key area's of service delivery with adult social care e.g. winter service capacity
- development of Integrated Care pilots
- pooled budgets for Learning Disability Services
- planning the development of Children's Trusts

As part of establishing ourselves as World Class Commissioners we need to strengthen these processes further and can already see a joint opportunity for tighter integration with the current local authority to support delivery of improved services for patients and in reducing health inequalities.

Developing our current relationships e.g. through further joint appointments will also contribute to delivery of a 30 percent management cost reduction target which the NHS has to achieve over the next three years.

The separate unitary for Norwich has the potential for

- Duplication of working arrangements
- Fragmentation of policy implementation
- Increased management costs at NHS Norfolk in mitigation of the aforementioned risks

NHS Norfolk is committed to addressing health inequality across the county and believes in the context of constrained managerial resources there are greater costs than benefits accruing from a separate unity for Norwich in achieving this. A county wide local government structure gives a better fit between organisational boundaries which supports the delivery of seamless services that residents want.

23 February 2010

Item 53 - Submission from the Norfolk Association of Local Councils

The response from the Norfolk Association is as follows:

How it is anticipated that these Unitary Authorities will work in practice;

How likely they are to achieve the Government's objectives;

The impact of the break up of county wide services – Children, Adults, Libraries and Museums – cannot be overlooked. The cost would be great not only in monetary terms but also the physical impact. There have been proposals for sharing such services which would tend to defeat the object of a Unitary Norwich. Unitary Norwich is unlikely to achieve what the Minister says. There is currently only one of the two Norwich MP's in favour of the proposal. There is no local democratic representation to comment on the proposal i.e. Parishes

Whether sufficient time is allowed to implement the changes;

The process has taken years to get to this stage and is now looking to be rushed through with very little time for independent comment.

Whether the estimates of costs and benefits are accurate;

The cost benefits ratio would be at best minimal if anything the costs would be greater – leading to higher Council Tax and/or lower services than those currently being delivered by the county. This is also likely to have an effect on existing services delivered by the city as funds are diverted to more pressing duties. It is hard to see that the duplication of vital services and their management will deliver savings, in fact compelling arguments to the contrary can be advanced.

Whether the ‘outcome of consultation’ accurately represents the various views;

There is Norfolk wide consternation on the abject disconnection between advice, which had been duly sought and which was based on clear evidence, and the final proposal. As you know this was deemed *not* fit for purpose by the previous Secretary of State and therefore was not considered as a viable proposal in the two year Boundary Committee consultation process. To re-instate this option at the final minute shows scant regard for the public’s view. Further, there is no evidence that Norwich City Council approached local communities for opinion.

We note that the final proposal would have achieved criteria if the “extended boundaries” option had been in place – but this is not the final proposal.

Whether the changes might give rise to unintended consequences.

The Association represents over 400 local councils many of whom look to Norwich as the hub of the county for services etc. Will this still be the case with a Norwich Unitary or would those services be fragmented throughout the county? The cost to Norfolk CC to devolve their services to the city will be met by those receiving no benefit from this proposal.

February 2010

Item 54 - Submission from Norfolk County Council

Norfolk County Council welcomes the opportunity to give evidence to the House of Lords’ Merits of Statutory Instruments Committee on the draft Norwich and Norfolk (Structural Changes) Order 2010 (“the draft Order”) and explain its reasons for opposing it.

This draft Order would, if approved, create a City of Norwich unitary based on its current boundaries. Unlike comparable Unitary Structural Orders, it leaves two-tier arrangements in place for the rest of the county. The creation of a Norwich unitary council therefore has adverse consequences for services, finance and value for money for the other Norfolk local authorities, notably Norfolk County Council.

The draft Order has been laid against the advice of the Boundary Committee for England and the Permanent Secretary at the Department for Communities and Local Government, who said it would give rise to the prospect of a successful legal challenge. Norfolk County Council has obtained legal advice that the Secretary of State has acted unlawfully in laying the draft Order and commenced judicial review proceedings.

We note the specific points on which we are invited to give evidence. We have commented on whether the Draft Order will achieve the Government’s objectives, whether the outcome of consultation reflects stakeholder views and unintended consequences. We have also emphasised some constitutional and political issues we think fundamental to consideration of the draft Order.

Failure to give effect to the policy objectives of the enabling legislation

The policy objectives are clearly articulated in the Local Government White Paper, *Strong and Prosperous Communities 2006*, given effect in the Local Government and Public

Involvement in Health Act 2007 (the 2007 Act). Former Secretary of State Ruth Kelly summarised the policy objectives in the second reading debate on the Bill on 22 January 2007: *“I want to see all our councils leading the drive for sustainable communities, regenerating our city centres, lifting people out of poverty and improving local public services. It is the job of central Government to enable local government to play that role. That is the purpose of the White Paper and, indeed, the Bill”* (Official Report column 1145)

In accordance with the 2007 Act the Government issued an Invitation to Councils in England to submit proposals for unitary structures. In the second reading debate Ruth Kelly emphasised that bids would be considered *“against extremely strict criteria”* (Official Report 22nd January 2007, col. 1150). The five essential criteria, set out in the Invitation, required any proposal to:

- a) be affordable (i.e. the change represents value for money and can be met from the councils’ existing resource envelope)
- b) be supported by a broad cross section of partners and stakeholders
- c) provide strong, effective and accountable strategic leadership
- d) deliver genuine opportunities for neighbourhood empowerment
- e) deliver value for money and equity on public services

In announcing the decision of the Secretary of State for Communities and Local Government on 10 February 2010 in relation to Norwich, Minister for Local Government Rosie Winterton acknowledged that two of the *“extremely strict”* and *“essential”* criteria on which the policy intention depended were not met. Those two criteria are affordability and value for money.

Two reasons were given for unexpectedly departing from the criteria and the approach previously adopted. The first deals with jobs and economic growth. The Minister contended: *“The Government’s priorities today are above all for jobs and economic growth. Local government has an essential role to play in delivering these economic priorities, **and this role is of a significance that could not be contemplated in 2006 when the criteria were developed.** We believe, as has been made clear to us by the representations we have received, that a unitary Exeter and a unitary Norwich would each be a far more potent force for delivering positive economic outcomes both for the city and more widely than the status quo two-tier local government”*.

It is simply untrue that the above factors could not have been contemplated in 2006 when the criteria were developed. Two whole chapters of the 2006 White Paper describe the rationale behind the criteria. It is also disingenuous to suggest that Government’s priorities have suddenly changed dramatically. More recently, but still 9 months before the Secretary of State’s decision in relation to Norwich, on 6 May 2009, the then Secretary of State for Communities and Local Government, Hazel Blears MP, said to a local government seminar *“The whole world is coming to terms with the economic slowdown. Families and communities across the UK are feeling it, and **there is no bigger priority for the Government than keeping them in a home and a job”**”*.

But the five essential criteria, including, value for money and affordability, against which all other unitary structural orders have been judged, continued to be the basis for the consultation and were confirmed by DCLG as the continued approach for decision making on 9 December 2009 when inviting representations from stakeholders.

The Minister of Local Government’s assertion that a Norwich unitary authority on its current boundaries would be ‘a far more potent force for delivering positive economic outcomes both for the city **and more widely** than the status quo two-tier local government’ is not born out by the facts. The Norwich Policy Area (NPA) is a long-

standing spatial definition in structure planning for Norfolk carried forward in the Regional Spatial Strategy. It is an area specifically designed to deal with growth related to Norwich. Only 14% of the housing and economic growth planned for the period to 2026 would fall within the boundaries of the proposed Norwich unitary.

The White Paper intends to streamline and strengthen leadership and accountability for driving economic improvement and growth based on cities. This Draft Order would create a new upper tier authority just for the city itself, leaving the County Council as the upper tier authority responsible for the area in which most growth is planned to take place in partnership with two district councils. This will complicate, rather than streamline, leadership and accountability for economic matters concerning Norwich and the wider area. In addition, by disrupting some of the critical services on which the most deprived members of the community depend such as adult care services and schools it will also make the economic challenge harder to meet.

The second policy argument advanced by Mr. Denham for departing from the stated criteria is that: “In its current approach to developing public service delivery, envisaged in its command paper-Putting the Frontline First...-announced on 7 December 2009 (Official Report, Commons; col. 1 WS), including the Total Place approach, a unitary Exeter and a unitary Norwich could open the way for improvements to the quality of public services.”

This Order would fragment essential county services and complicate rather than streamline decision-making. Furthermore, the word ‘*could*’ clearly does not suggest certainty and no evidential basis is given for this assertion. The Permanent Secretary to DCLG shares our view advising the Secretary of State in a letter dated 8 February 2010: “*I also recognise your approach may open the way for improved public services through the Total Place approach, but this will be dependent on the collaboration of all the councils concerned and as yet, there is no clear evidence of the costs and benefits that may arise*” [see letters printed at Appendix 1].

‘Putting the Frontline First’, which would have been some time in its gestation, was presented to Parliament on the same day that the Boundary Committee gave its advice to the Secretary of State and CLG wrote to affected authorities confirming the approach that the Secretary of State would take in formulating a decision and the use of the essential criteria. The Permanent Secretary’s analysis further undermines the credibility of the final decision: “*Your proposed approach of implementing a unitary Exeter and Norwich, and not implementing a unitary council for Suffolk would be a departure from the criteria, and whilst I recognise you could adduce your reasons for this as public policy grounds for not meeting the legitimate expectation, my clear legal advice is that the risk of decisions for a unitary Exeter and Norwich, and indeed for not taking action on Suffolk, being successfully challenged in the judicial review proceedings is very high.*”

Consultation

Consultation results do not bear out a conclusion that this draft Order commands a broad cross-section of stakeholder support. The Boundary Committee consulted on unitary-only options for the county of Norfolk and finally, on two options - a county unitary (its preferred option) and a two unitary model - a Norwich unitary on extended boundaries and a Norfolk rural authority. It concluded most Norfolk people wanted the status quo, but that of the two unitary options, the option including a unitary Norwich on extended boundaries was the least popular option. Of the 370 responses that expressed a unitary preference on the two proposals consulted upon, 71% were in favour of a county unitary. Only 20% supported the option containing a unitary Norwich.

Only 3% of those responding to the DCLG invitation to make representations on the Boundary Committee's recommended option supported the Norwich unitary option. 85% of respondents supported the status quo and 10% supported a county unitary.

Consultation responses on the original Norwich City proposal are set out in the DCLG report 'Proposals for future Unitary Structures: Stakeholder Consultation, Summary of responses 2007'. An analysis of those for the Norwich proposal does not constitute clear evidence that it is likely to meet the relevant criterion on stakeholder support. On the contrary, it demonstrates opposition from *two thirds* of the voluntary organisations, *the majority* of businesses, *a substantial number* of Parish and Town Council, *most members of the public*, *seven of the eight local councils in Norfolk* and *many public sector organisations*. Pages 24 and 25 of this report are attached as evidence in **Appendix B** [*not printed*].

Unintended consequences

There are at least three unintended consequences that would arise from this Order that would adversely affect the citizens of Norfolk and Norwich.

The fiscal context for public services is far worse than in 2006 when the Invitation to Bid was issued, or 2007 when the Government originally concluded that this proposal was unaffordable and poor value for money. If implemented, it is likely to lead to a marked diminution in the provision and quality of services.

Unlike the Orders made in 2008 for other areas, no unitary council will be created for the rest of Norfolk. The County Council will have none of the opportunities for efficiencies afforded by merged structural arrangements, but will inherit extra costs and see loss of economies of scale. This will adversely impact on services for residents of the two borough councils, Norfolk's market towns and rural areas.

The draft Order also requires the Implementation Executive, in implementing a Norwich unitary, to have regard to information supplied by Norwich City Council to the Secretary of State in relation to "value for money services". Yet the Minister is quite clear that, in relation to value for money, Norwich's bid fails. So local councillors are required to pay 'special consideration' to a series of proposals already proven to represent poor value for money for Norwich residents

Constitutional concerns and practical difficulties

Because the Government rejected a unitary Norwich based on its current boundaries the process since focused on possible all-unitary solutions for the county of Norfolk and a different model for Norwich. So unlike the situation in the counties covered by the previous Orders, whilst there is an implementation plan for Norwich, there is none for the remaining two-tier area, which poses immense practical difficulties.

The draft Order is laid on the basis of a sudden change of rationale that has not been consulted upon. It has been informed by new financial figures which have not been seen by or shared with Norfolk County Council. The Impact Assessment that accompanies the draft Order acknowledges the proposals do not meet the affordability criteria. It was laid against the advice of CLG's Permanent Secretary. The concern generated about a proposed departure from the essential criteria and the agreed process saw the Permanent Secretary for CLG take the unprecedented step (for CLG) of writing to the Secretary of State seeking a Ministerial direction to proceed. The Permanent Secretary wrote: "I am concerned that the approach you are proposing makes it difficult for me to meet the standards expected of me as Accounting Officer".

One serious effect of the Order is to cancel City Council elections in May 2010. Instead, article 5 envisages the establishment of an Implementation Executive to exercise the existing executive and non-executive functions of Norwich City Council. The Implementation Executive will be composed of existing members of Norwich City

Council and Norfolk County Council. The policy of the draft Order is reminiscent of an attempt by the Government in 1984 to cancel elections to the Greater London Council ahead of its abolition. The Government was heavily defeated on this proposal when it came before the House of Lords. Outrage at Government proposals in the case of the Norwich City elections is no less. We note that the minority Labour administration is expected to come under considerable pressure from opposition parties.

Less than 12 weeks away from local elections and, in all likelihood, a general election, our suspicion is that the Secretary of State's decision is motivated by political factors. Labour has minority control in Norwich with 14 seats to the Green Party's 13. In last year's Euro elections the Green Party came first in Norwich. If the decision on the Order were to be postponed by just a matter of weeks, the Implementation Executive would be more properly representative of the Norwich electorate.

Conclusion

We urge your Committee to recommend the Government withdraw the draft Order on the basis that it has failed properly to apply its published criteria in making Orders providing for unitary authorities and can effect its policy intentions only very imperfectly as a result. At the very least, we urge your Committee to recommend that the Order be not considered for debate until the judicial review decision has been reached.

22 February 2010

Further submission from Norfolk County Council

Norfolk County Council understands that the official deadline for the submission of evidence for discussion by the Merits Committee was 6pm, 22 February 2010 and submitted its evidence accordingly. Nevertheless this evidence, wholly material to the matter under discussion and the submission of Norfolk County Council, only surfaced today, Tuesday 23 February 2010. We ask that it be considered.

Ministers acknowledge that this Draft Order still fails to meet two of the criteria previously deemed essential and used to make decisions in respect of all the other unitary decisions considered this parliament. Namely, the case for a unitary Norwich Council, based on its current boundaries, failed the criteria requiring that it be affordable and provide value for money.

We have learned today, that yesterday, 22 February 2010, the High Court issued an injunction against Norwich City Council to stop the award of a multi million pound contract for housing services building maintenance, the expected annual savings from which had already been factored into the Draft 2010/11 City Council Budget.

The City Council is reported as estimating this decision to cost £1million a month from March 2010 onwards to pay for an alternative provider of services, until this contract wrangle is sorted out. This is currently unbudgeted and unplanned for and will need to be taken account of alongside the £8million savings the Draft Budget needs to deliver for the next two years.

The implications of yesterday's decision by the High Court increases both the level and the nature of the risk posed to services for Norwich and Norfolk residents if this Order is allowed to go ahead. It further undermines the credibility of both reasons given by the Minister for Local Government for departing from the agreed policy criteria. It also adds further weight to our contention that this Order cannot bring into effect the original policy intentions of the enabling legislation.

The creation of an unaffordable unitary council for Norwich deemed unlikely to deliver value for money services, especially in the current fiscal climate, is now even higher risk

than it was. If implemented it will have severe financial and service consequences for Norwich and the remainder county. This will not support the ‘opening of the way for improvements to the quality of public services’ - given by the Minister gave as one reason for departing from the policy assessment criteria. Neither will it ‘ensure a far more potent force for delivering positive economic outcomes both for the city and more widely than the status quo two-tier local government’.

It adds further weight to the concerns of the Permanent Secretary to CLG when seeking Ministerial direction to proceed, in which he said:

“Having considered your and the Minister for Local Government’s preliminary decisions on the unitary proposals before you, and the reasons for them you have explained to us and which I understand, I do have concerns, principally about their value for money and feasibility. Accordingly, if you were to decide to proceed as you are currently proposing, I would be grateful for a written instruction from you to implement these decisions.”

23 February 2010

Item 55 - Submission from Norfolk Police Authority

Your Lordships Committee invites concise written evidence by 18.00 on Monday 22 February 2010 on any or all of the following points:

- how it is anticipated that these Unitary Authorities will work in practice;
- how likely they are to achieve the Government’s objectives;
- whether sufficient time is allowed to implement the changes;
- whether the estimates of costs and benefits are accurate;
- whether the ‘outcome of consultation’ accurately represents the various views; and
- whether the changes might give rise to unintended consequences.

General: The position of the Norfolk Constabulary and the Police Authority (NPA) is that we both believe that unitary authorities are, *prima facie*, better than the existing two-tier structure in terms of economies of scale and thus efficiency and effectiveness (and thus a better use of taxpayers’ money – particularly apposite at this time).

See the attached letters [*not printed*] to the Department for Communities & Local Government (DCLG) from the Constabulary and the NPA regarding the Boundary Committee for England (BCE) proposal for a single unitary Norfolk. We have consistently supported a unitary solution for the whole county of Norfolk, primarily for operational policing reasons.

On the specific points:

- how likely they are to achieve the Government’s objectives;

Throughout the protracted consultation process, the BCE invited all parties to address 5 criteria (all deemed vital) established on the back of the White Paper and approved by Ministers in the DCLG. All parties have addressed those. Based on evidence, the BCE drew its conclusions against those criteria. The Minister has unilaterally and arbitrarily introduced two other criteria and reached his conclusion on those. This, at best is disingenuous to the consultees, at worst *ultra vires* the statutory processes.

- whether the ‘outcome of consultation’ accurately represents the various views;

Given the deficiencies in process arising from the above point, under no circumstances can that be true. Whilst history demonstrates that the public are generally disposed to “no-change”, it is the role of government to make the strategic policy, and decisions based

thereon. This must be even more so at a time of significant financial deficit. The proposal is selfish and, even if beneficial on the new and restricted grounds adopted by the Secretary of State/Minister, potentially seriously harmful to the rest of the County of Norfolk.

- whether the changes might give rise to unintended consequences;

From a policing perspective, by dividing the current key services relating to education, young people's care, and adult social services, it is considered this will require duplication of effort, potential enhanced bureaucracy, and the potential for the more vulnerable in our society to be put at risk.

Moreover, the proposed outcome can only be a partial solution. It is based on boundaries that most parties acknowledge to be outdated and totally artificial. It leaves a mixed-economy of single and two-tier local government in Norfolk that is lacking in coherent strategic vision and, more importantly, democratic accountability. It will rapidly require remedial action by the subsequent expansion of Norwich's boundaries (achieved via an administrative process of boundary review with little Parliamentary scrutiny) that inevitably will significantly further undermine the viability of what is left. This factor was fully recognised by the Boundary Committee and was a significant factor in its recommended "whole of Norfolk" solution.

Of course, the Police Authority and Constabulary will work with whatever solution is mandated, and we will strive to make it work, for the benefit of the public that we jointly serve. We strongly believe however, that this is the worst-case option for the public of Norwich and the rest of Norfolk, particularly the most vulnerable in our society. Currently, we enjoy the position of being England's safest county in terms of our performance and low crime rate. We would not want to see that jeopardized.

February 2010

Item 56 - Submission from Norfolk Tourist Attractions Association Ltd

The Norfolk Tourist Attractions Association Ltd. is a trade association for day visitor attractions in Norfolk with some 85 members over 105 locations. Our association has supported the view that a single unitary authority for Norfolk would be in the best interests of our industry.

Tourism is Norfolk's largest industry. It generates some £2.6 billion revenue annually for the county and employs 47,000 people. The industry relies on close partnership working to bring together public and private sector interests to promote Norfolk as a tourism product. Norfolk has over 5,000 micro and small businesses in a range of industry sub sectors that look towards the public sector to take a lead and bring these disparate groups together.

Norfolk's tourism destinations themselves are a product of the natural environment, the built environment and the way in which the market place responds to those products. The geographical boundaries of tourism destinations rarely relate to Local Authority boundaries and in Norfolk's case, the destination "Norwich city" is not only comprised of the current city council area, but also encompasses 'greater Norwich' – the 15 mile or so radius around the city where the majority of the accommodation is based. Equally, tourists move around a destination and "cross border" movement of tourists into and out of the City area requires marketing infrastructure and activities that support that joined up message.

Regarding: "How it is anticipated that these Unitary Authorities will work in practice"

Partnership relationships between Norwich City Council and the surrounding local authorities in tourism terms have been fragile and the proposal to give unitary status to Norwich will not improve the chances of a better relationship in future.

In practice, we would like to see the equivalent of a contractual context that safeguards the working relationship in terms of cooperation with the surrounding Districts and at least the current funding levels that would support the "Greater Norwich" destination. The local partnership through VisitNorwich Ltd. would be the obvious mechanism to continue to deliver this service.

Equally, in terms of Norwich's relationship with the wider county destination, we would like to see the equivalent of a contractual context that safeguards the working relationship in terms of cooperation with the other Norfolk Districts and the County Council and supports at least the current funding levels. The local partnership through Norfolk Tourism would be the obvious mechanism to continue to deliver this service.

Regarding: "Whether the estimates of costs and benefits are accurate"

The financial management of the City Council from an external 'public' perspective in recent years has been suspect. Hopefully the estimates of savings projected in the longer term have been validated by an independent external agency. There remains a large question mark over affordability, and value for money, if these remain criteria for consideration. It is hard to see what benefits Norfolk's largest industry will accrue from this move.

Regarding: "Whether the 'outcome of consultation' accurately represents the various views" and "Whether the changes might give rise to unintended consequences"

Clearly, of the views submitted to the Secretary of State, it is understood that only 3% supported a unitary for Norwich. It cannot be argued that the outcome of consultation has been represented by the draft order.

Most significantly from a tourism point of view, given that none of the other Council's support this draft order, and, as has been stated earlier, partnership working is vital for our industry - it bodes badly for the real chances for better co-operation in the future. An unintended consequence could be the reduction of funding towards the promotion of Norfolk's tourism industry and the Greater Norwich tourism product.

23 February 2010

Item 57 - Submission from Norwich City Council

This document sets out Norwich City Council's response to the call for evidence by the Lords Merits of Statutory Instruments Committee on the Draft Norwich and Norfolk (Structural Changes) Order 2010. Norwich City Council submitted the bid for a unitary Norwich council and would become the preparing authority.

How is it anticipated a Norwich unitary council will work in practice?

A Norwich unitary council will be a new council for Norwich, not a re-launched version of the existing City or County Council. It will build on existing good practice from both organisations and learn from best practice nationally and internationally. It will work closely with local people and partner organisations to create a modern and innovative unitary council that can best meet Norwich's distinct urban needs, both now and in the future. However, it will also work hand in hand, where appropriate, with the County Council for the benefit of the wider county and region.

The new council will deliver stronger, clearer and more accountable political leadership for Norwich through a single leader elected for a four year term and a cohort of 39 councillors with very clear executive and community councillor roles.

The new council will focus on priorities that will maximise the future economic and social development of the city, including :

- Economic development – to expand the city’s knowledge economy, enhance business and job growth, attract greater inward investment and provide more effective promotion of the city as a business destination.
- Co-ordinated growth strategy – to provide better coordination of the planned growth for the area including transport and the physical and social infrastructure, working with our partners through the Greater Norwich Development Partnership, to ensure development is ambitious and sustainable.
- Educational attainment and aspiration – it will be the top priority of the new council to drive up the currently low school attainment levels and improve aspirations amongst the city’s most deprived communities.
- Health improvement – to improve social care services and work more closely with the NHS to tackle the marked health inequalities in different parts of the city.
- Climate change and sustainability – to build on our reputation as a green city and continue work to establish Norwich as a national exemplar in eco-friendliness and become a model for sustainability.
- Waste collection and recycling – to continue the big improvement in recycling and further boost performance within the City.

The new council will be designed around an integrated organisational model which will enable full service integration and the creation of innovative ‘total place’ partnership arrangements to ensure the delivery of high quality, holistic services tailored to the needs of local residents. The model envisages the following interlocking hubs:

- Strategy – setting the direction, approach and style and facilitating collaborative partnerships
- People – services which are focused on adults, children and families
- Place – city services which improve the local environment and place and neighbourhood services which can be delivered locally and offer local integration opportunities.

How likely is a Norwich unitary council to achieve the government’s objectives?

Norwich is already the economic powerhouse of Norfolk. The Norwich urban area is the largest employment centre in the eastern region, providing 40% of the jobs in Norfolk. A major regional service centre, Norwich has the highest in-commuting rate in England and Wales, outside of London. It is the largest general insurance centre in the UK and one of the UK’s most significant financial clusters. Norwich is a major centre for cultural and creative industries with the highest per capita cultural provision in the UK and is one of the top ten retail and tourism centres.

However, Norwich has the potential for much greater economic growth and under performs in some areas compared with many other medium sized cities that already benefit from the focus and leadership of a unitary city council.

A new Norwich unitary council would enable the city’s huge economic potential to be realised. This would deliver greater prosperity and jobs for the benefits of the residents of Norwich, Norfolk and the wider Eastern region. This would be achieved through a strong strategic approach, and focus on the economy:

Strategy

- Delivering a clear and focused place shaping and economic leadership role - Norwich has a clear identity as a thriving City with a huge growth potential. A unitary Norwich council would give it the capacity to work more effectively with key partners to develop a clear vision of sustainable economic success and provide the strong strategic leadership needed to ensure this is fully realised.
- Promoting the City effectively on the Regional, National and International stage - Norwich increasingly needs to compete with other cities on the national and international stage. A Norwich unitary council would champion the needs of the city, and take on a prominent role in the regional, national and international arena. It would be able to seize new public and private investment opportunities more quickly, compete more effectively and maximise the economic benefits for the city, county and wider region.
- Delivering innovative partnerships to deliver economic growth – A unitary Norwich council would build on the track record of Norwich City Council in developing innovative partnerships to deliver growth. Norwich was one of the first in the country to sign a ground breaking ten year collaboration and investment agreement with the Homes and Communities Agency, bringing forward sites and regeneration projects including over 1,300 new homes and 1,800 new jobs. A new Norwich unitary council would continue the City Council’s collaboration with neighbouring local authorities through the Greater Norwich Development Partnership to drive the wider greater Norwich economy, provide clarity to investors on the types and locations of development and ensure the necessary facilities are provided for growing communities.
- Tackling deprivation, raising educational attainment, skills and aspirations - A Norwich unitary council would make this its top priority working pro-actively at a neighbourhood level to generate a “total place” approach, which would result in an enterprising and better skilled population and workforce. We would use a “Campus Norwich” approach through which all schools and academies in the city area would work together with the new council to share best practice, tackle failing performance and support vulnerable children.

Economy

- Supporting the sustainable development of new and existing businesses – A Norwich unitary council would work closely with businesses and create a climate to foster investment and growth. It would build on the success of the Norwich Enterprise Centre to deliver easy access services to new and existing businesses. We would build on local expertise, particularly at UEA, to help businesses to develop environmentally friendly business processes and exploit business opportunities in emerging environmental markets.
- Developing a sustainable knowledge economy - Norwich is a UK top 10 city for employment in knowledge intensive businesses, level with Cambridge and ahead of Brighton. Its young population and high graduate skills base make it very different from the rest of Norfolk. A Norwich unitary council would continue to work with its sub regional economic partners to invest in the innovation and enterprise infrastructure needed to support its range of knowledge intensive sectors to grow the sustainable jobs of the future.
- Delivering economic prosperity for all – Norwich’s economy benefits from high retention of graduates and in migration of a skilled work force, however a disproportionate number of the indigenous population are trapped in low skill, low paid employment. A unitary Norwich Council would focus an adult learning and

skills programme on the needs of the resident population. This would sit alongside activity to develop the knowledge economy which would generate intermediate level job opportunities to enable residents to progress and prosper.

- Developing the infrastructure for businesses and communities to innovate and flourish - A new Norwich unitary council would ensure a fully integrated transportation strategy which would focus on the needs of residents, businesses and visitors to the city to reduce congestion and encourage business investment to the area and the city would also ensure that the virtual infrastructure requirements such as high speed internet access required for businesses to flourish were prioritised
- Delivering financial inclusion - A new Norwich unitary council will build on the existing Norwich City Council's success in implementing a financial inclusion strategy to help local people through the recession and expand existing initiatives such as Community Development Finance Institutions (CDFI), money fairs and debt advice.
- Supporting the local economy at the heart of everything the new council does – A Norwich unitary council would maximise the impact of all its services on the local economy. For example it will use its significant buying power to support the local economy, building and sharing best practice in procurement and partnership methods.

A new Norwich unitary council would also deliver significant improvements in the quality of public services. This would be achieved by taking a strong “front line first” approach:

- Developing enhanced customer insight to tailor local services and develop more innovative, interactive and efficient access channels – by engaging closely with local residents to develop a detailed insight into its customers, sharing this data with appropriate local partners, to ensure all local services are tailored to local needs and provided through the most efficient and effective access channels which take full advantage of the efficiencies and interactivity offered by modern platforms such as digital television and text messaging.
- Delivering integrated ‘total place’ service solutions tailored to the urban needs of Norwich residents – by cutting through historic organisational and professional service barriers to deliver truly integrated service solutions tailored to the urban needs of the local residents of Norwich. The existing City Council has already delivered a number of innovative service arrangements that bring together different organisations and professions in a holistic and preventative approach. For example, the council's current Leap Project brings together a range of services and organisations to give unemployed homeless people in Norwich the opportunity to learn new skills and get a job and a home. The new unitary council would be able to take this type of work much further integrating children's and adult services with district services such as housing, while working closely with partners from the police, NHS and third sector to share data, pool budgets and utilise smart commissioning techniques to realise large scale efficiencies and ensure more personalised services for Norwich residents.
- Setting out clear guarantees for responsive and appropriate services for Norwich residents - by publishing clear standards and response targets for all its services so that every resident knows what to expect from the new council and what to do if they are not met. The new council will take an “ask once, respond quickly and effectively” approach to all its frontline services to reduce avoidable contact and enhance customer satisfaction.

- Expanding trading opportunities that generate income that can be invested back into frontline services in Norwich – by developing a range of trading activities, utilising the opportunities provided by joint venture vehicles, to produce surpluses that can be passed back to Norwich residents through investment in enhanced frontline services.
- Devolving services to the lowest effective level to ensure Norwich residents can shape the nature of the services they receive - by building on the existing City Council's neighbourhood model through devolving further services and powers to the four neighbourhoods, wherever it is appropriate to do so, so that local communities can influence the design, delivery and management of the services they receive.
- Transforming services to drive out waste and ensure the most efficient methods of delivery - by building on the existing City Council's track record of successfully delivering large scale efficiency and improvement (the city council's current improvement and efficiency programme is recognised as best practice) to drive out duplication and waste and streamline management and back office arrangements to realise efficiencies and deliver enhanced frontline services for local people.
- Focusing on key urban issues – by addressing the key urban issues affecting the city such as low educational attainment and aspirations, deprivation and inequality, mental health, obesity and teenage pregnancy.
- Focusing on people – by putting in place a range of methods to ensure effective two way communication and engagement with the people of Norwich so that it can tailor its resources and responses to the issues that mean the most to local communities.

Has sufficient time been allowed to implement the change?

We believe that experience from previous re-organisations clearly shows that sufficient time has been allowed to implement the change. In addition Norwich City Council (who would be the preparing authority) has already carried out considerable preparation work and has detailed plans in place for the implementation of the new unitary council.

Are the estimates of costs and benefits accurate?

The financial case for a unitary Norwich council provides an affordable and strong financial position. Our updated financial estimate is accurate and sets out the total cost of implementation at £20.019m. However, the total saving generated in the same period will more than exceed that at £24.420m. After that, the new council would continue to generate at least £4.4m efficiency savings every year. We have worked closely with Deloitte on the financial case.

The key strategic benefits of a unitary Norwich council include:

- Clear and accountable political leadership for the city
- A clear focus on the distinct urban needs of the city
- Delivery of a co-ordinated growth strategy for the city working closely with our partners
- Realisation of the City's huge economic potential through increased prosperity and jobs
- End of the current democratic deficit for the city's residents (None of the ten County Councillors on the County Cabinet represent the city)
- Enhanced neighbourhood management and empowerment for the city's residents

- Simpler and easier access to services for the city’s residents
- Improved efficiency and effectiveness with no duplication of services and structures
- Better city services tailored to the requirements of city residents
- The ability to promote the city effectively on the regional, national and international stage
- A strong city will ensure a strong county.

Does the ‘outcome of consultation’ accurately represent the various views?

We believe that throughout the different elements of the re-organisation process a strong broad cross section of support has continued for a unitary Norwich council from all different sectors including:

Peers	businesses
MPs	community, civic and voluntary organisations
councillors across different parties and councils	residents both inside and outside the city

Whether the changes might give rise to unintended consequences?

We do not believe the changes would give rise to any unintended consequences.

22 February 2010

Item 58 - Submission from Ray and Julia Rumsby

We are writing as long-term residents, the one now retired from Norfolk’s education service, the other a current employee. We have taken part in the various consultation procedures about the Unitary proposals over the last three years. Our home is five miles from the centre of Norwich, just within South Norfolk DC.

To be clear about our viewpoint from the outset, we would prefer the *status quo*: the district councils and a county council serving the whole population of Norfolk. Failing that, we would seek a single unitary authority for the whole county. Hence we are resolutely opposed to the Norwich Unitary idea. We are regular voters who believe in the democratic process, which we think has been ill-served by the government in this case. For the record, neither of us is a supporter of the Conservative Party, or is intending to vote Conservative.

How it is anticipated that these Unitary Authorities will work in practice

The Norfolk Archive has been recently established next to County Hall in state-of-the art accommodation. Its documents reflect hundreds of years of history, including that of American bomber crews based in Norfolk in WW2, some of whose families regularly visit this county. The Archive was built, and the preservation of those documents has been maintained, largely with the County’s money. This county-wide service and others (e.g. the Norfolk Traveller Education Service, the English Language Service) happen to be located in Norwich. Although surely the worst absurdities of territorialism will have to be negotiated away (but at what cost in terms of the labour involved?) it begins to feel as if some licensed robbery or betrayal is about to take place. As the Ministers concerned have

responsibility for *communities*, account must be taken of the consequences for how local people think and feel about such communitarian issues.

We regularly use the Norfolk Library Service, whose website shows precisely which books are in various library buildings across the entire county, how many copies, and where stored; the service also supports Reading Groups. The website affords 16,000 digital images of the county, acquired over a century of public donations. We often borrow books from the mobile library van which dependably visits our area. But the 'mobiles' serving the rural communities, and their HQ, are in Norwich. The newly-built Forum, housing the central Norfolk library and the BBC regional broadcasting centre, is a beautiful building in the heart of the city - but this highly successful project was funded and overseen by the County Council, with the benefit of economies of scale from the taxation of people across the county, and is returning good value to them now. It has the highest 'footfall' of any library in the country. Yet according to our local newspaper, *it is not known* whether or not the Norfolk Library Service will be split up, or what the funding arrangements will be under the proposed Unitary status. Presumably the same applies to Norfolk's museum service, which supports properties, research, preservation, and co-ordinated educational activities across the county.

How likely [the Unitary plans] are to achieve the Government's objectives

There has been a long, expensive process of consultation (three years) and two previous decisions by the then secretaries of state, as well as extended involvement by the Boundaries Commission, whose main recommendation has been rejected with this decision. According to a leaked document, even the senior civil servants in the Minister's own office advised against having a Norwich Unitary. We know that Britain is in the midst of financial crisis, so the Secretary of State's arguments for re-directing available resources - 'spending now to save later' (while ignoring the government's own published criteria) - should be scrutinised very carefully indeed. Our evidence is quite the opposite. Far from bringing greater efficiency, a Unitary Norwich would *duplicate* certain provisions in education and social services, entailing *fragmentation* of inter-agency support for children, families and vulnerable adults.

Unitary Norwich would have six secondary schools within its boundaries. Two of these are sponsored Academies - not accountable to Local Authorities, but to central government agencies. (Incidentally, Norfolk CC is co-sponsor in one of those cases!) As things stand, therefore, Unitary Norwich would be directly responsible for just four secondary schools. No Local Authority of this size could offer *efficiently* the range of multi-agency support required by schools. On the other hand, Norfolk CC currently has about 50 secondary schools and a large advisory service (covering the entire curriculum), offering training and support to approximately 450 primary, secondary and special schools. The county's sensory support service has recently been integrated with these advisory services to boost efficiency. Clearly the economies of scale are massive, and local headteachers' representative groups do not support the Norwich Unitary proposal in any form. It cannot be more efficient to hand these and other aspects of provision (such as psychological diagnostics) to such a small Local Authority having no previous direct involvement in their management. Moreover, the county's base is just within the current city boundary - for it is on the 'wrong' side of the road. One more negotiation.

Leaked information that civil servants could not find sufficient financial arguments to support the ministerial case indicates that a nakedly political decision has been taken. Thus, in terms of accountability and of good governance, the rationale for this bizarre decision must now be fully explored. Surely a decision of such importance must be accepted as at least *feasible* by the people who will be asked to make it work? Much goodwill has already been lost.

Whether sufficient time is allowed to implement the changes

Is there a plan - e.g. for schools' cross-boundary entry policy; for primary health care?

Whether the estimates of costs and benefits are sufficiently accurate

Norfolk County Council is rated as a four-star authority. The Secretary of State's decision would disrupt this very good work in order to hand power over the city's education and social services to an executive which has signally failed to manage its own finances well, having drawn severe criticism from the Audit Commission for mismanagement, amid charges alleging corruption within the housing department.

Significant numbers of Norfolk CC's 27,000+ jobs suddenly become re-negotiable if the Norwich Unitary decision goes ahead. But Norfolk CC is already re-structuring in order to promote integration of services and to reduce unnecessary tiers of management. The creation of Norwich Unitary will subvert that work, requiring that the two new Authorities completely re-structure - at an enormous cost of energy, time, and plain human anxiety. The small Norwich Authority will need individuals to undertake multiple roles (not merely multiple tasks) which will stretch capacity and capability. The outcome will necessarily mean duplicated, rather than reduced, bureaucracy in some essential services. For Norfolk CC, meanwhile, the services themselves will be required to continue without impairment - quite possibly without much funding to do it with in these financially straitened times. The relevant Executives may have to sit down together and work things out, but three intemperate years have passed and there is much resentment. This state of affairs does not augur well for the sort of painstaking and time-consuming co-operation needed.

The decision does not even implement what the City Council asked for. The Norwich proposal recognised that the present boundaries no longer reflect the recent growth of the city. There are many people - not in individual roads, but in whole communities such as Sprowston or Thorpe St. Andrew - who may regard themselves as Norwich citizens, but who actually pay Council Tax to Broadland DC. The city boundaries are relatively constricted, and the financial viability and sustainability of the Norwich Unitary Authority *without* boundary changes is highly questionable.

Whether the 'outcome of consultation' accurately represents the various views

The overwhelming majority of those responding to the latest consultation (97%:03%) supported a 'whole Norfolk' option, not secession. As a couple we take responsible citizenship seriously, but now feel quite disenfranchised because the profile of the responses gathered in consultation has been altogether ignored through this decision. We suspect that the motives for it are not at all about the long-term benefits to the people of this area.

Whether the changes might give rise to unintended consequences

A decision about Unitary status is not straightforwardly administrative. In view of the fact that 84% of Norfolk people live outside the boundaries of Norwich, across an area of perhaps 60 x 40 miles, issues of cultural integrity, tradition and dialect, history, and sense of identity matter greatly. Nor is this some flight of fancy: tourists come to Norfolk and visit the city, not the other way round. What they have come to see is one area with different features, not the consequences of two rival executives squabbling over increased bills for separate marketing campaigns having different logos, different websites, and conflicting event-schedules.

Similarly there has always been a shared tradition in which Norwich is 'our city', serving the people - not somebody else's bailiwick. This tradition is embodied in titles such as the Norfolk and Norwich University Hospital Trust, the regional focus of The University of East Anglia, the Norfolk Wildlife Trust, and the Norfolk Archaeological Society. But top-

down decisions which create Unitary Authorities out of nothing, despite overwhelming opposition from the populace, serve to undermine that sense of meaningful identity. It is not that certain groups or societies would be split up (although the task of negotiating grant-support from different Local Authorities thereby becomes much more difficult), but that these artificial and destabilising separations work at an *emotional* level.

The two of us have followed the progress of these debates very closely, having participated in the various 'consultations' and meetings. To be left with a decision that does not represent *any* of the options presented to the populace certainly does not encourage us to take part in any more 'decision-making processes': palpably bad decisions foster the very cynicism amongst voters which the Government says it wants to overcome. This is not 'small is beautiful', or 'giving power to local people': it is a mess.

18 February 2010

Item 59 - Submission from Saffron Housing Trust

The decision

We were surprised at the decision that was reached as it does seem to be the least rational choice between a single unitary authority, the status quo and the decision that was reached.

Early on in the process the Secretary of State in 2007 stated that the case for Norwich to become a unitary authority did not meet the criteria. As a result alternatives were requested to the original proposal. This view was backed up by the Boundary Commission late in 2009. It does therefore seem illogical to then decide in 2010 that previous statements and proposals could then be ignored.

The practicalities

Our response will focus on the practicalities of the proposal for all organisations that will need to interact with the various revised local government bodies.

All Social Housing Providers, Care Organisations, Voluntary and Charitable organisations that work across the county will find their ability to operate made more difficult. All of us will have to undertake separate conversations with two bodies instead of being able to hold a single conversation with the County Council.

In addition there may well now be different outcomes from these conversations that require extra work cost and time to implement and dislocate the ability of these stakeholders to be as effective as possible. We believe that the additional cost and burdens placed on stakeholders should be considered as a key part of the economic evaluation of the proposal, and also the administrative review of the proposal.

For example there is a proposed Norfolk County Council Care re-provision programme to overhaul and rationalise all their residential care facilities. This re-provision is overdue and will address imbalances in the current provision as well as the assets that are no longer fit for purpose. This will now be split into two separate programmes, making it less effective, more expensive to administer and reduce the potential value of the whole process.

A more logical conclusion may well have been to opt for the single unitary authority to reduce down the various local government players in the county and to allow harmonisation of process, policies and approaches across a wider area thus allowing the available assets of key stakeholders to have a simplified way to work with local government.

A good example of value that would be derived in our area of social housing would be to reduce the 6 Choice Based Lettings schemes in the county, all with different rules and policies into a single effective scheme.

We are also concerned that Norwich City is an integral part of the sub-region (Greater Norwich) and the wider county.

In our area of operation the sub-regional housing targets can only be met through the majority of the housing being built in the neighbouring authorities. We understand the same is true of employment growth.

This sub-regional need to work to meet identified needs does argue against introducing different local administrative arrangements and will lead to inevitable tensions which may well harm delivery of targets.

The period of re-organisation and redeployment that will result from this will have been costed out in reaching any conclusion. We are more concerned about the long term effect and cost of delays that will result in nearly all service areas whilst the proposals are being reviewed further and then further during the process of implementation. Norfolk cannot afford the inevitable stagnation of most decision making during the interim period of change.

Conclusion

We would have hoped that the review of local government in Norfolk would have resulted in more 'joined-up thinking'. The proposal to split up a massive range of services into two organisations is baffling and we fail to see how these services can be provided more efficiently and have better outcomes for the service users and stakeholders.

February 2010

Item 60 - Submission from Baroness Shephard of Northwold

I have the following points to make:-

Background.

The Committee will be aware that the Permanent Secretary at DCLG, Mr. Peter Housden, has asked for the Secretary of State's Direction to implement the proposed decision. The Committee may wish to judge how unusual (or not) it is for a Permanent Secretary to require a Direction in a case such as this. My own view is that the concerns expressed by Mr. Housden in his letter to John Denham, dated 8th February, are so important that the proposal should be ruled out altogether. I enclose copies of the correspondence for Committee members [printed at Appendix 1].

On a number of occasions, on the Floor of our House, I have drawn to colleagues' attention the fact that the Government had no proposal, in its 2005 Election Manifesto, to impose a unitary system of local government across England. Relevant legislation during this Parliament has specifically forbidden full public consultation where the Government wishes to impose unitary reform, the Government saying that it would involve only "stakeholders". The retention of the status quo in two-tier areas has also been specifically ruled out. Had the proposals been the subject of full public consultation, the overwhelming view across Norfolk and Norwich would have been to retain the status quo of local government arrangements. The whole process, which so far has taken four-and-a-half years, has been notable for the lack of any pretence at a democratic process, a fact clearly perceived by the local population and media.

Your Committee has invited written evidence on six points.

Point 1. There is the deepest concern about the ability of the Norwich City Council to run even its current responsibilities with any degree of competence. This year is the first for five years that its accounts have been officially approved. It has recently been enmeshed in a housing scandal, as a result of which the officer concerned was dismissed; her dismissal is now being challenged in the courts. The elected members responsible for housing matters denied all knowledge of the events leading to the dismissal. The Council has no experience or expertise in running, for example, Children's Services or Adult Social Services, or developing an interface with the police or the NHS. If it is unable to run its own housing department, there must be serious concern about its capability to deal with additional important and sensitive public services. Any idea that the City Council could be, in the words of John Denham, "a potent force for delivering positive economic outcomes both for the city and more widely" is frankly a joke, especially since the potential for job and housing growth is almost entirely outside the city boundaries.

Points 2 and 4. These are devastatingly dealt with by Mr. Housden in his letter to John Denham of 8th February. I attach copies. His concerns are legitimate and, I would have thought, fatal, to the proposal.

Point 3 is in my view irrelevant, since given the problems of funding and competence, additional time for implementation would make no difference.

With regard to **Point 5**, the DCLG has published the results of a form of "consultation" exercise it conducted between December 8th, 2009, and January 19th, 2010. They had 1,424 responses. I hope the Committee will be able to ask exactly which organisations and individuals were consulted. It is worth noting that the population of Norfolk and Norwich is some 750,000. Of these responses, 85% were in favour of the current pattern of local government in the county of Norfolk, 10% favoured a Norfolk unitary, if there had to be any change at all, and just 3% favoured a Norwich unitary.

On **Point 6**, I expect the Committee to hear from organisations, voluntary and statutory, expressing the strong view that it will be time wasting and costly to have to relate to two Councils, rather than one, in respect of, for example, children's services, care for the elderly, policing, NHS services, and of course all the voluntary services which serve Norfolk and Norwich. It is perhaps worth asking if the time, energy and executive effort needed to dismantle current arrangements and re-assemble them will contribute to the well-being of the people of Norfolk and Norwich, and even if such effort can be afforded in the present economic situation.

The whole sorry episode spread over the past four-and-a-half years has already taken up enormous amounts of time and effort on the part of all Councils, and other public services and bodies, and the voluntary sector, in Norfolk and Norwich. The Government, in proposing this way forward, has gone against the recommendations of its own Boundary Committee, and its own criteria in respect of feasibility and value for money, and is exposing itself to the very real risk of judicial review. This, in the words of Mr. Housden, "could only exacerbate the worries ... about value for public money. And it would also put pressure on departmental resources." I, and many others, are left wondering just why the Government insists on pursuing this course at this stage of the Parliament.

22 February 2010

Item 61 - Submission from Keith Simpson MP

The Merits Committee has asked for written evidence to provide it with information about the practicalities of the implementation of this Order, so that it can better fulfil its role of considering whether the Order will achieve its policy objective.

I am the MP for Mid Norfolk, a large rural constituency which extends around the northern outer suburbs of Norwich. I am concerned that the ministerial proposal to establish a unitary Norwich on its current boundaries separate from the rest of Norfolk will adversely affect my constituents.

Since the government first invited councils in Norfolk to submit proposals for unitaries I have been in favour of the status quo. From the beginning of the process I was concerned about the lack of democratic accountability. Whilst “stakeholders” have been consulted my constituents have not, and indeed the original legislation specifically excluded consulting the public.

Since 2007 I have initiated three debates on Unitary Proposals and Norfolk which took place in Westminster Hall. In each of these debates I emphasised my concerns and those of the majority of Norfolk’s MPs which included, apart from the lack of democratic accountability, the break up of councils and services; the costs of implementation; and no clear evidence of financial savings or improved services.

The lack of public support for the unitaries was obvious from the very beginning and I have not received one letter, email, telephone call or personal comment in favour of unitaries from any of my constituents.

You will be aware that the DCLG have now published statistics showing responses to the Boundary Committee’s preferred option for a single Norfolk unitary. Of the 1,424 responses received 85 per cent wanted the status quo, 10 per cent were in favour of a Norfolk unitary, and only 3 per cent favoured a Norwich unitary as now proposed by the government.

The Committee should be aware and concerned about the way in which the government has kept changing the instructions given to the Boundary Committee. In 2007 the government accepted that a Norwich unitary on current boundaries was unacceptable and sought a solution based on a Norwich unitary on expanded boundaries. Then in 2008 the government told the Boundary Committee to consider cross county border alternatives with Suffolk. Further changes occurred over the next year with councils seeking judicial reviews until the Boundary Committee published its advice in December 2009 for a single unitary Norfolk. On the 10 February 2010 the government proposed a Norwich unitary on existing boundaries taking us back to 2007.

Throughout this process one theme has emerged which is the real concern that Norwich City Council with its present boundaries did not have the leadership, organisation and financial competence to run its current responsibilities let alone a unitary authority. The Committee will be aware of the failures of Norwich City Council to achieve credible ratings in every area of competence and the scandal last year involving the head of housing and certain officers occupying council properties. Despite the government making every effort to put more money into Norwich and to bring in outside professional assistance there is no evidence that Norwich can meet the new ministerial criterion that a unitary Norwich “would..... be a far more potent force for delivering positive economic outcomes both for the city and more widely than the status quo two-tier local government.” Indeed it is the opinion of many local councils, businesses and voluntary groups as well as MPs that the exact opposite would be the case.

These concerns have been expressed in the letter of the 10 February written by the DCLG Permanent Secretary to the Secretary of State asking for a Direction for these proposals. The Permanent Secretary has placed his letter and the Secretary of State’s reply in the public domain and I have placed them in an annexe to this submission for the Committee’s convenience.

The Permanent Secretary’s advice is quite damning and undercuts all the claims made by ministers. Officials who are accounting officers demand a written Direction only if they

believe a minister is misusing public money or behaving improperly. Since 1997 there is no other example of a Permanent Secretary at DCLG or its predecessor department asking for such a Director and there have been only nine such examples across the whole of Whitehall during that period.

I would submit that the government's proposals will have "unintended consequences" for my constituents with the break up of many services such as education and transport currently provided by Norfolk County Council. For example I would be very concerned at any further division of responsibility for child protection.

I would respectfully urge the Merit Committee to take into account my submission and refer this Order to a full debate on the Floor of their Lordship's House.

18 February 2010

Item 62 - Submission from Chloe Smith MP

How it is anticipated that these Unitary Authorities will work in practice;

The constituency of Norwich North covers wards of Norwich City Council and Broadland District Council, straddling the boundary of the proposed new unitary authority and the remainder of Norfolk. Organisations, businesses and individuals in the constituency have expressed concerns to me over the complexity of the proposed new arrangements. Any organisation that crosses the boundary of the proposed small unitary council would effectively now be obliged to deal with more layers of government, namely unitary, County and District, rather than fewer. As reflected in the Boundary Committee's recent consultation exercise²⁶, there is strong preference throughout my constituency for the status quo.

How likely they are to achieve the Government's objectives;

Taking the Government's objectives to be their original five criteria - affordability, value for money and equity on services, broad cross-section of support, strategic leadership and neighbourhood empowerment - the proposed decision to award unitary status to Norwich on its existing boundaries is, in my view and that of many of my constituents, extremely unlikely to achieve those objectives.

- i. Affordability and value for money: I need only cite the then Secretary of State's view of December 2007²⁷ that the unitary proposal for Norwich would, if implemented, not be reasonably likely to deliver the outcomes specified by the affordability criterion, nor in the outcomes specified by the value for money services criterion. This is acknowledged by this Committee's own call for evidence.
- ii. Broad cross section of support: The Boundary Committee's recent consultation demonstrated only 3% support for the proposed decision, with 85% in favour of retaining the status quo²⁸.

²⁶ Communities and Local Government Report published 10/2/10: Proposals for future unitary structures in Devon, Norfolk and Suffolk: period for representations: Summary of responses

Found at: <http://www.communities.gov.uk/publications/localgovernment/devonnorfolksuffolkresponses>

²⁷ Official Report, Commons, 2/12/07; col. 66 WS

²⁸ Proposals for future unitary structures in Devon, Norfolk and Suffolk: period for representations: Summary of responses

- iii. Strategic leadership: The failure to gain local support for the proposed decision provides little basis for strategic leadership.
- iv. Neighbourhood empowerment: those constituents living in the Norwich City Council wards of Mile Cross, Catton Grove, Sewell and Crome who have approached me on the matter and on other matters have little faith in general in the City Council's current, past and future ability to engage them and provide services at a decent quality.
- v. The City Council's engagement capability has been seriously hampered by the well-documented failure of their Housing Department leading up to the 'Greyhound Opening' scandal in 2008/9.

Acknowledging the government's u-turn on the above five criteria, and their new preference instead for i) economic growth in the city unit and ii) service delivery, my constituents remain extremely sceptical of the proposed policy's ability to achieve these new preferences.

- i. Economic growth in the city unit: Organisations, businesses and individuals in the constituency have expressed concerns to me over the viability of the city area as an engine of growth without reference to the wider county infrastructure.
- ii. Service delivery: As noted under 'Neighbourhood Engagement', those constituents living in the Norwich City Council wards of Mile Cross, Catton Grove, Sewell and Crome who have approached me on the matter and on other matters have little faith in general in the City Council's current, past and future ability to engage them and provide services at a decent quality.

Whether sufficient time is allowed to implement the changes;

The timing of the decision – just months before a General Election – is dubious in the extreme. The Committee will be aware of the evidence of the Permanent Secretary's concern in relation to timing.

Whether the estimates of costs and benefits are accurate;

The Committee will be aware of evidence given by others to demonstrate the poverty of the financial case for the proposed decision.

Whether the 'outcome of consultation' accurately represents the various views;

The figure of 3% support for the proposed decision, with 85% in favour of retaining the status quo, very accurately represents the views expressed to me by constituents in both the City and Broadland parts of Norwich North.

Whether the changes might give rise to unintended consequences.

To sum up, the huge majority of those constituents who have expressed a view to me hold very little faith in the proposed changes delivering anything other than a political fix.

22 February 2010

Item 63 - Submission from South Norfolk Council

Introduction

We welcome the chance to respond to your call for evidence on the proposed implementation of a unitary local government structure in Norwich City, with two tier arrangements for the remainder of Norfolk.

We believe there is no case for change to local government structures in Norfolk. We have consistently given the following messages to the Boundary Committee, and most recently

to the Minister for Local Government, Rosie Winterton, whom we met in January. We hope the Committee will find these points useful.

The proposals are wrong for Norfolk. They disregard the social and economic geography of the county, and in particular the role of the Greater Norwich sub-region in delivery of the growth agenda for houses and jobs.

The decision is based on proposals in which the financial data is at least two years out of date, and which do not take into account the economic downturn over the last eighteen months.

There is no broad cross-section of support for the proposals and in fact the overwhelming conclusion from public consultation is strong support for no change – the status quo.

The strategic leadership necessary from both of the existing constituent local authorities to deliver an efficient and effective council is not in place.

Members of the Committee may be aware that South Norfolk Council, together with the Borough Council of King's Lynn and West Norfolk, Breckland, Broadland and North Norfolk District Councils took out a judicial review against the Boundary Committee, on their recommendations for unitary proposals in Norfolk. We believe those proposals would have been bad for Norfolk, and that they were based on a flawed process. We have only recently vacated those proceedings, in light of the Secretary of State's decision, but our view is that this latest proposal is flawed as well.

We will provide specific evidence on the difficulties of implementation that we believe these proposals face, but in addition, we set out below several key points that put these proposals in context, and which we hope will be of considerable interest to Members of the Committee.

Background

The proposal put forward by the Secretary of State was originally proposed by Norwich City Council in October 2006. Despite several attempts, at great cost, the evidence has not supported the proposal at any stage. In fact the Secretary of State, having invited submissions for unitary status early in 2007, found in July that year, that the case for Norwich did not meet the criteria. At that point, the Boundary Committee was asked by the Secretary of State to provide advice on alternative proposals for unitary local government in Norfolk that would meet the criteria.

The Boundary Committee submitted its advice to the Secretary of State in December 2009, and proposed a single county unitary solution. With reference to the original 2007 proposals, they recommended, "... the original proposal for unitary status from Norwich City Council should not be implemented." In their advice, they referred to the decision made by the Secretary of State on that original proposal, and stated that they made their recommendation "... on the basis of the Secretary of State's previous concerns about such an authority's ability to meet the affordability criterion, which was not displaced by any evidence received by us during this review..."

As the Committee will be well aware, the Secretary of State has, in fact, not taken the Boundary Committee's advice for a unitary Norfolk, to which we were opposed in any event, but instead has reverted to the original proposal for a unitary Norwich City. We believe that the current proposal has no more merit than the original, rejected proposal.

Secretary of State's decision

There are five criteria against which any proposals for unitary local government were to be judged - affordability; broad cross section of support; strategic leadership; neighbourhood empowerment; and value for money and equity in services. In the Written Statement placed before Parliament, the Minister of State for Local Government states that the

Boundary Committee proposals had been considered against those criteria, and the proposals for unitary county arrangements did not meet all of those criteria.

The Minister then goes on to refer to the previously rejected proposals for Exeter and Norwich. She refers specifically to the fact that the decision in 2007 to reject those proposals was on the basis that they would not be reasonably likely to deliver the outcomes specified by the affordability criterion, nor value for money, in the case of Norwich.

She states that the proposals have been considered afresh against the criteria, and the assessment is the same as it was in December 2007. Yet she then goes on to state that there are now compelling reasons to depart from that presumption that proposals that do not meet all five criteria are not to be implemented.

The Minister refers in the Written Statement to the Government's priorities of jobs and growth. We do not dispute those priorities, which indeed are our priorities as well, but we do not believe a unitary Norwich will make the difference the Government seems to feel it would. The phrase that is used is that a unitary Norwich would be "...a far more potent force for delivering positive economic outcomes both for the city and more widely that the status quo two-tier local government."

We strongly believe that this decision is based on a flawed analysis of the social and economic breakdown of Norfolk and Norwich, which ignores the realities of how Norwich and the sub-region works.

Assessment

We are partners in the Greater Norwich Development Partnership, in which we work closely together with Norwich City Council, Broadland District Council and Norfolk County Council. That partnership was explicitly set up to deliver the Government's own Growth Agenda, and reflects the socio-economic realities of the sub-region and the co-dependence between Norwich and the surrounding areas.

In the Regional Spatial Strategy, the Government identified a need in the Greater Norwich sub-region for 35,000 jobs in the period to 2021 and 36,000 homes by 2026. The GNDP has produced a Joint Core Strategy (JCS) to provide the Local Development Framework to deliver that growth. The JCS shows a requirement for 35,600 houses, and only 8,600 – a quarter - of those will be inside the city boundary. (See Annexes provided) The maps show that the bulk of the employment land allocations needed to provide the jobs needed to meet Government requirements – 35,000 by 2021 – are in Broadland and South Norfolk districts, not in Norwich. So the driving force behind the economic and social growth is the sub-region, not the city itself.

We have effective arrangements already in place to connect the city to its economic and social hinterland, and we are delivering the growth agenda in partnership. What this proposal does is to remove the economic driver from the Greater Norwich sub-region - it takes the heart out of Norfolk.

We do not agree that there is a broad cross-section of support for the proposal. Public consultation by the Boundary Committee was limited, and public consultation that we have carried out locally, using respected firms such as Ipsos/MORI, has consistently produced results strongly in favour of the status quo, particularly when the county unitary was proposed. (See table below [not printed])

There is little public support for change in Norfolk, or for the unitary Norwich proposal, outside the city of Norwich, and limited support from its own residents.

The Department for Communities and Local Government's own criteria that the proposals required a broad cross-section of support has not been met. In fact, the

summary of representations made to the Department, provided in the Explanatory Memorandum accompanying the draft Order, clearly shows 85% of those responses in favour of the status quo – change is not wanted.

As far as the costs and benefits of this proposal are concerned, the Council does not believe that the huge upheaval, huge risk to service delivery, and huge transition costs are worth the benefits that are being projected. The benefits are uncertain whereas the major risks are certain. The Government's own advisers, the Boundary Committee, found no evidence to convince them of the affordability of a unitary Norwich, yet the Secretary of State has set that aside, for the "compelling reasons" referred to earlier.

Given the current economic climate, while jobs and growth are priorities, there is an equally pressing need for all public agencies to seek affordable solutions for service delivery. We believe that there are sufficient, effective arrangements already in place and in development across Norfolk – such as 'right sized' shared services, shared officer arrangements and other low cost/high impact changes - enabling savings to be made at the same time as continuing our strong track record of delivering affordable and value for money quality services.

In terms of practical arrangements, we have been told, already, that there will remain only one fire service and one library service for Norfolk. So a unitary Norwich is already not able to fulfil all its functions. The current County Council arrangements for service delivery are inconsistent in their geography. For example there are five areas for Children's Services across Norfolk, but only four areas for Adult Social Services and three for Highways. Neither are the boundaries co-terminous with district boundaries.

To disentangle those areas to accord with the city boundary will be hugely difficult and time consuming, without considering the very reasons that they were set up in that way in the first place – to account for the different ways in which services needed to be provided in a county as diverse as Norfolk.

We believe that the timetable for change is problematic, not least looking at the difficult situations faced by some of the unitaries that came into being in April 2009, on the longer timeframe, albeit still short, of 18 months. A year is insufficient in our estimation, to implement a new Council successfully, taking into account the need to disaggregate County Council services.

We were provided with an opportunity in January to meet with officials from the Department of Communities and Local Government, to provide them with our views on transitional issues. We made it clear to them that one of the significant issues in the transition phase, which we would ask the Committee to consider, is the possible lack of strategic leadership within an Implementation Executive (IE) for Norwich.

Unquestionably, Norwich City Council will provide the Leader and other senior members from the current City Council to serve on the IE. However, with due respect to the present incumbents, the same level of seniority cannot be said of the County Council representatives. On the basis that members of the IE must serve within the area, none of the current County Councillors within Norwich are Cabinet members, and as such may not have sufficient authority to provide the leadership from that side that would help smooth the transitional process.

In addition, we firmly believe that one of the unintended consequences of such a decision could be the election to any new council of a number of anti-unitary councillors. That is more likely to happen in a situation such as this, with a truncated lead-in time to the elections to the new council, when the issues are still fresh in the minds of the electorate. In the case of Norfolk, there has been a long hard campaign against any change from the status quo, and many elected members have been involved whose positions are now entrenched. That is not a recipe for success for a new authority.

Conclusion

We have stated previously that the proposal does not reflect the socio-economic geography of Norfolk, particularly of Greater Norwich. It seems to us that the new unitary Norwich City Council would not in fact be able to provide the “more potent force” alluded to by the Minister, unless they work closely in collaboration with the surrounding councils. That is currently the way we work in Norwich, without the dubious benefits of unitary status, so why is change needed?

We are grateful to the Committee for the opportunity to provide evidence to you, and we hope that this paper is a useful contribution to your deliberations. We respectfully submit that the case for change in local government structures has not been made and we urge you to reject the draft Orders.

February 2010

Item 64 - Submission from Sprowston Parish Council

In response to your email to local authorities in the Norwich area, and our telephone conversation of yesterday please find enclosed the submission of Sprowston Parish Council who border the Norwich area proposed for Unitary under the Norwich structural change. The Sprowston Parish Council area has a population of approximately 15,000.

This Council has concerns that the strategic work on growth point status and Greater Norwich Development Partnership in relation to housing and transport will be greatly affected by the Unitary Norwich. The Greater Norwich policy work worked when it had one strategic authority and three districts involved now it will have two different strategic authorities. Housing allocation in the Sprowston area will be greatly affected by the proposed change. There are concerns that the employment areas both inside the Norwich Unitary boundary and outside such as Sprowston would be affected by this change.

Huge practical difficulties of the two authorities (Broadland and Norwich) will have to agree bus subsidies where routes go into Norwich. Consideration towards contribution by Norwich towards Park and Ride facilities will have to be explored so that congestion arrangements can be in force within the City boundary.

Education implications with the new Academy outside the proposed boundary of Norwich, with the impact for Sprowston residents electing a choice of schools.

The Library service, presently a Norfolk County Council function has the facility for Sprowston residents to receive information and books, both deposited and collected, outside the main library service at Norwich, a consideration which needs to be explored with a change of service. Also, support to the Museums Service has not yet been identified or resolved.

The Police and Fire Service currently operate within the Norwich boundary, with close proximity and working arrangements with bordering Councils there is concern that the service will suffer.

The County unit cost per household may rise in that area if left with a smaller population.

Many existing contracts ie waste, will be affected due to boundary changes, both financial and practical.

I trust the above is of interest to the Merits Committee and if I can expand on any of the above issues please contact me.

February 2010

Item 65 - Submission from June Thoburn CBE

I understand that the Committee on the Merits of Statutory Instruments is considering this question. I apologise that this submission may not be in the appropriate format but I have only just been informed of the deadline.

My particular concern and expertise are with respect to social care services, and more specifically to services for vulnerable children and families. I am also one of a small number of social care professionals who has worked both for a unified Norwich and a two tier Norfolk. There are, of course, merits in each, and challenges to be overcome in each. I am attaching the submission I made to the Boundary Commission (in a personal capacity but using my expertise as a professional social worker, educator and social care researcher) from which you will see that I think the arguments made, at least as I read them in the submissions in the earlier rounds of consultations, tended to underestimate the benefits to vulnerable people in Norwich of unitary status for the city. Although there would need to be some disturbance to the county services as a whole as currently provided, this would, in my view, have no long term impact on the quality of these services in Norfolk, and have considerable benefits to vulnerable children and families in Norwich.

Two factors have strengthened the argument since I wrote my earlier letter. Norfolk County Council is about to undertake a major reorganisation of service delivery boundaries within the county, so some disruption for service users and staff is going to happen in any case. More importantly, the Government's *Think Family* plans in the recent *Support for All* green paper make it even more desirable that housing services and social care services are responding to the same planning and policy drivers. These strengthen the validity of the general policy direction towards Unitary local government which is now the pattern in most of England. My letter to the Boundary Committee follows.

Letter to Boundary Commission:

I write as a Norwich resident of over forty years, who has during that time been employed as a social worker by both the unitary Norwich City Council in the 1960s and by Norfolk County Council in a two tier system in the 1980s. I have been a non-executive member of the East Norfolk Health Authority, a school governor, and am a trustee or patron of three Norfolk charities providing services to vulnerable children and families. I am currently an Emeritus Professor of Social Work at UEA, undertaking some consultancy work and providing expert evidence in complex child care cases. Until recently I was vice chair of the General Social Care Council.

However, I am making this submission in a personal capacity, as someone whose expertise on services to vulnerable children and families is recognised internationally and nationally. I have researched and published widely on social policy and social work issues and have been an adviser on child and family issues to both conservative and labour governments.

The first point to make is that, for all the reasons given in the consultation documents, I fully support the recommended move to a local government service planned and delivered from unitary authorities. Particularly with respect to vulnerable people, it makes no sense to have responsibility for housing issues separate from the provision of other social care services. However, I have serious doubts as to whether the large authority created by the proposed unitary Norfolk (with or without Lowestoft) would have the flexibility to meet the needs of its geographically, economically and socially diverse population. The advantages of moving to unitary status would, in my view, be more likely to be achieved if the second option (unitary Norwich with enlarged boundaries and unitary Norfolk) were adopted. [*added February 2010 - I hold this view with respect to a Unitary Norwich on current boundaries*]

Given my career background, I am particularly concerned as to whether the attempt to create 'fairness' across such a widely scattered and disparate population would result in a

lack of creativity and flexibility in the provision of services to the most vulnerable people, both in the urban centres and rural areas. The proposed 21+ community partnership boards and 5 'scrutiny areas' could lead to confused accountability, and could compound the difficulties of timely decision making essential to delivering an appropriate service tailored to the needs of communities and individuals facing very different problems. Where highly specialist services need to be provided on a larger scale (as when numbers in any one authority are small), cross authority contractual arrangements, which already apply in some services such as adoption and secure accommodation, can ensure clear lines of governance and accountability..

Further advantages flowing from the creation of (at least) two unitary authorities within such a large geographical area are those associated with pluralism and the broader sharing of power. It is not an ideal situation if one wishes to see creativity and innovation for there to be a single employer of a particular professional group (within the terms of my own expertise, social workers, although the general point may apply to other professions). Whilst the 'mixed economy' of provision in social care services is leading to some choice of employer, the majority of social workers (who are essential to the provision of sensitive services to vulnerable adults and children) will continue to be employed by local authorities. A choice of employer can be of benefit to both worker and authority. Rather than increasing turnover, an element of 'competition' in staff recruitment and retention can result in service improvements- some of the most dynamic and highly rated authorities in terms of their social care provision are small unitary authorities in close proximity to each other or have 'doughnut' city/county boundaries.

Whilst inevitably there will be some early additional resource implications for voluntary agencies and other third sector partners, many already work across local authority boundaries. Any temporary renegotiating of grants and contracts will be offset by the longer term advantages to the voluntary sector of not being dependent on a single source for what is becoming an increasingly large part of their income. As well as their vulnerability to changes of policy in a single authority, there is always the possibility that they will feel constrained in another of the important roles of the voluntary sector - to act as a 'critical friend' when needed or vigorously advocate for a policy which they believe is in the interest of those who need their services.

In summary, whilst I do not think the status quo should be an option, I consider that the balance of advantage to the most vulnerable citizens is weighted towards the two unitary authority pattern B proposal, although I can see some merit in the two unitary authority pattern A proposal.

22 February 2010

Item 66 - Submission from Cllr Mike Tilbury

I refer to your e-mail of February 15th, inviting comments on the merits of the proposal.

You will recall that Norwich sought unitary status in 2006. The Secretary of State refused this, judging that "there was not a reasonable likelihood of Norwich's proposal, based on the city's current boundaries, if implemented, achieving all the outcomes specified by the five criteria."

As an Ipswich bid failed at the same time, the Secretary of State then asked the Boundary Committee to conduct a review.

In its review, the Committee received a proposal from Norwich for a unitary authority comprising Norwich city and substantial chunks of surrounding districts. In its report, at paras 5.50-52, the Committee explained why it could not endorse this proposal. I

presume that these paragraphs will be before the Merits Committee when this matter is considered.

The fundamental point at this stage is whether the original Norwich proposal gave any consideration to the rest of Norfolk. I contend that it did not, and the Committee, in paragraph 5.51, appears to share that view.

If the review is to retain any credibility, the Secretary of State must explain how his latest proposal advances any of the five objectives as far as the whole county is concerned. It leaves Norfolk County Council with a depleted revenue base, but removes little from their obligations, whilst obliging Norwich to set up a parallel staffing structure for the services which it will now have to provide.

Frankly, it is difficult to see any benefit in this proposal, other than the unitary status which has for many years been seen as a virility symbol for Norwich.

22 February 2010

Item 67 - Submission from Weeting Parish Council

Weeting Parish Council supports the proposed changes because:

1. Norwich city is of sufficient status to deserve “unitary” status.
2. The City has been a drag on the rest of the County and therefore the rest of the County will get a fairer deal as the result of the proposals being implemented.
3. This proposal means district councils will remain.

February 2010

Item 68 - Submission from Joan Wheatley

I have 2 specific objections to this proposal:

1) Education

The last time Norwich ran its own schools, the education policy was quite different from that in the county. This led to horrendous problems with some children going to secondary school at 11 and some at 12. This had dire consequences on the teaching of foreign languages and would be even worse in this era of SATS. The county has only recently managed to create a unified structure and it would be another stupid waste of public money to have this undone.

2) The Millenium Library and Museums

The county built and equipped the splendid library in Norwich and it also runs the excellent museums. As a county tax-payer, I should be very aggrieved to have to pay more towards replacing these facilities if it proved impossible to reach a satisfactory arrangement with the city. This may seem far-fetched but it happened quite often some 30-40 years ago.

It should have been clear to the Minister that this is against democracy - the majority voted for the status quo which works very well and provides much-needed local accountability. It is also a ludicrous waste of money which the country cannot afford. Political dogma is one thing but to steam-roller such an unpopular measure through against the wishes of the majority is down-right stupid.

February 2010

APPENDIX 4: DRAFT EXETER AND DEVON (STRUCTURAL CHANGES) ORDER 2010 AND DRAFT NORWICH AND NORFOLK (STRUCTURAL CHANGES) ORDER 2010: RESPONSE TO THE CALL OF EVIDENCE FROM THE ELECTORAL COMMISSION

Submission from the Electoral Commission

Introduction

This submission is made in response to the House of Lords Merits Committee's call for written evidence on the draft Structural Changes Orders as mentioned above. The response is concerned solely with the timing of scheduled elections and not the merits of the proposed changes to the structure of local government in the affected areas.

The Committee may wish to note that decisions taken by the Government on the creation of new unitary authorities in Exeter and Norwich follows consideration of advice provided by the Boundary Committee for England, a statutory committee of the Electoral Commission.

The Boundary Committee's advice was provided on 7 December 2010, at which point the Committee's role in the process concluded. The Boundary Committee's advice can be found at www.boundarycommittee.org.uk

This response is submitted by the Electoral Commission and relates to the provisions contained in the draft Structural Changes Orders (Part Five) for the cancellation of elections scheduled for May 2010 to:

- Exeter City Council
- Norwich City Council

Comments

The Electoral Commission believes that, as a matter of general principle, cancelling scheduled elections should be avoided wherever possible, and should only be considered in exceptional circumstances. We believe that any proposals to cancel scheduled elections should be based on a rigorous and clearly explained justification.

We have previously set out our views on the issue of cancellation of scheduled elections. In May 2009, the Local Government Minister consulted on proposals to cancel elections to Stoke-on-Trent City Council scheduled for May 2010, in advance of a move to implement whole council elections in the city. The Chair of the Commission responded as part of that consultation to express concern that a clear case for cancellation had not been made. The Minister decided following the consultation that the scheduled elections to the authority should go ahead as planned.

Following the announcement of the decisions on local government structures for Exeter and Norwich and the publication of the draft Orders giving effect to those decisions, the Chair of the Commission wrote on 15 February 2010 to the Local Government Minister, asking her to confirm that more information on the justification for cancelling the elections this May would be made available before the draft Orders are considered by Parliament.

We are also aware that Norfolk and Devon County Councils have begun judicial review proceedings against the Secretary of State in respect of the decisions announced on 10 February. While the Electoral Commission makes no comment on this litigation or its likely outcome, the Committee should be aware that the formal timetable for any scheduled local government elections in May 2010 would begin by 29 March 2010 at the very latest.

We would be happy to address any further points and provide further information if the Committee so wishes.

22 February 2010

**APPENDIX 5: BRITISH NATIONALITY (RWANDA) ORDER 2010 (SI 2010/246):
FURTHER INFORMATION FROM THE UK BORDER AGENCY**

Information from the UK Border Agency

Q1. *Who proposed that Rwanda be allowed to join the Commonwealth?*

A1. My understanding is that Rwanda applied to become a member of the Commonwealth. The decision to allow them to join was taken by the Commonwealth Heads of Government as a whole. The UK is one of 54 members of the Commonwealth and decisions regarding the Commonwealth are made by consensus. The UK did support Rwanda's bid, but the application was processed by the Commonwealth Secretariat on behalf of all members and reviewed at the 2007 Commonwealth Heads Of Government Meeting in Kampala. The decision on applications for new membership were made during the 2009 CHOGM.

Q2. *With whom did UKBA consult in developing UK Government's position on the issue?*

A2. UKBA has not consulted on this. The decision to admit Rwanda to the Commonwealth was taken by the CHOGM: this is not a decision made by the UK government. To include Rwanda in Schedule 3 of the British Nationality Act 1981 merely updates that schedule to reflect current Commonwealth membership.

Q3. *Has there been any parliamentary involvement in developing the UK's position on the issue?*

A3. As above, this was not a UK decision. However, the Prime Minister and Tony Blair before him have given public support to Rwanda's accession.

I am attaching press lines prepared by FCO by way of further background information.

February 2010

APPENDIX 6: INTERESTS

Committee Members' registered interests may be examined in the online Register of Lords' Interests at www.publications.parliament.uk/pa/ld/ldreg.htm. The Register may also be inspected in the House of Lords Record Office and is available for purchase from The Stationery Office.

In relation to the meeting on 2 March 2010 an interest was declared on the following reported instrument:

Draft Exeter and Devon (Structural Changes) Order 2010

At the meeting on 23 February Baroness Butler-Sloss declared an interest in that she lives close to Exeter and considers that she would be affected by the Order.

Baroness Butler-Sloss decided not to participate in the Committee's deliberations on the Order, and did not attend the meeting on 2 March.