BRIEFING 11

ESTABLISHING AN ELECTORAL COMMISSION

Although elections in the United Kzngdom are@ and fairly conducted, the rules governing their admnistration and condud are dated and ingcient. Labour and the Liberal Democrats have proposed establishing an electoral commission as a key element in the reform of our electoralframework. This briejlng examines the role and_f;nctions, and the prom of&1khina an electoral commision.

Attitudes to the Existing Framework

Concern about the current electoral hamework is shared by all three main parties. The previous Home Secretary confirmed his intention towards the end of the last Parliament to conduct a review of the rules under which the Boundary Commissions work (House of Commons Debate, 23 January 1997); and in evidence to the Hansard Society Commission, the Conservative Party supported changes to the rules on local expendture limits. In the
report of their Joint Consultative Committee on Constitutional Reform, the Labour Party and Lberal
Democrats expressed concern at the lack of progress which has been made in respect of reforms and
improvements to the processes of electoral reFation and voting procedures and agreed to examine what
independent machinery may be desirable.

The Labour Party's Working Party on Electoral Systems, chaired by Lord Plant, considered wide-ranging
reform of current electoral arrangements in its 1993 report, including a rob5 0 0 9.875 255.3596

In England, Wales and Scotland, electoral regwtration and the actual conduct

fiere may be a case for the residual responsibility for electoral matters to be moved &om the Home Office to the Cabinet Office, particularly if other constitutional functions are gathered there. These might include responsibihty for referendums generally, including the referendum on reform of the electoral system. The Ministerid lead could shift to the Leader of the House, whose role is less partisan than other members of the Government because of the need to work across the party divide in managing the business of the House.

Boundary Reviews

The revision of constituency boundaries for Parliamentary and European elections is currently the responsibility of four Boundary Commissions, covering England, Northern Ireland, Scotland and Wales. Each Commission is nominally chaired by the Speaker of the House of Commons, although the Speaker does not play an active part in their deliberations. In addition, each commission has three part-time members: the deputy chairman must be a High Court judge (or a Court of Session judge in Scotland) and for the English and Welsh Commissions is appointed by the Lord Chancellor, for the Scottish Commission is appointed by the Lord President and for Northern Tm (cur352t[land))T0.0 or

geographical factors. It is impossible to avoid some contradiction between these consideratiom, part of the Commissions' task is to try to reconcile these often co&cting aims.

Population dis~bution and geography ensure that there will always be a need for some degree of compromise, but despite a rule which states that the number of constituencies in Great Britain shall not be submay greater or less than 61 3, there has been an inexorable increase in the number of MPs after each review. In 1950 there were 625 MPs; in 1955,630; in 1974,635; in 1983,650; and, in 1997, there are 659 MPs.

The relative over-representation of Scotland and Wales results a much from historical anomaly as from any
conscious policy decision, although itis exacerbated by the way in which the Boundary Commissiom' rules are
interpreted. The Redistribution Act 1944 fixed the minimum number of Scottish seats at 71 and Welsh seats at
35. In the new Parliament there are 72 Scottish seats and 40 Welsh ones. This produces an average of 55,043
electors per Scottish seat, 54,047 electors per Welsh seat and 69,238 electors per English seat. Any review of the
redistribution of Parliamentary seats, or a merger of the B~undary Commissions, will produce calls for the
distribution of seats to be re-examined. With devolution back on the political agenda,0.0115 Tc 7.879 0 Td (or)Tj(Sc Td)]TJ -

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reduction in the number of constituencies in Scotland and Wales requires a review of the statutory hamework within which the Boundary Commissions work and, although it does not in itself point to a change in the institutional 5arnewoz-k of the Commissions, there may be a cumulative case for an electoral commission which would support including these changes in legislation establishing an electoral commission.

Territorial Structure

Any merger of the existing Boundary Commissions needs to retain a temtorial structure: because reviews are best conducted by experts with an understandmg of the local political geography; and because Scotland, Wales and Northern Ireland may have devolved assemblies with different electoral systems. The Constitution Unit's reports on a

commission would need power to screen out frivolous or vexatious complaints, and to refer to an Election Court d&icult points of election law, or serious cases where it appears the result should be annulled and a &esh election ordered.

Further work needs to be done on the respective roles of returning officers, the electoral commission and the court in investigatmg petitions and complaints (in particular on whether the commission should have enforcement powers); but the ombuchmn-type role of investigating complaints is one performed by electoral commissions overseas, and with suitable adaptation should be capable of introduction in the UK.

Setting up an Electoral Commission

The independence of an electoral commission d be ad to its successfd operation. Its independence must therefore be clearly sgnalled and protected in its structure and organization. A commission must also be accountable for its performance and ensure that its activities are transparent and

In addition to this formal line of accountability, an electoral commission should give a wider account to other stakeholders and to the ~ublic. This would include ensuring transparency in its actions-by, for example, pubhhing annual reports and accounts-and engaging

Other functions will be transferred &om the Boundary C~mnksions and &om the Home Office with their existing budgets. The budget of the I~OU~~XY commissions for England and Wales in 1997-98 is around &1.6~, and the five staff in the Elections Section of the Home Office &184,000. The Boundary Commissions have a small permanent staff seconded fi-om the Office for National Statistics, and take on extra staff according to the fluctuaq workload involved in boundary reviews. The electoral commission would need a core