



CENTER FOR TRANSITIONAL and POST-CONFLICT GOVERNANCE

Delimitation Equity Project

Case Study: United Kingdom

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Redistribution Process

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The United Kingdom's¹ system of redistribution has operated in its current form, with some modifications, for just over fifty years. During this time there have been five redistributions completed, in 1947, 1954, 1969, 1983, and 1995. The task is undertaken by four independent boundary commissions, one each for England, Scotland, Wales and Northern Ireland. It is done on a set timetable, which has been changed twice since 1944.

The commissions are composed of four members appointed by the relevant secretaries of state. The chair is the Speaker of the House of Commons who neither attends nor participates; meetings are conducted by the deputy chair, a senior judge in each case. Each commission has assessors representing departments which supply vital information (for England and Wales these are the registrar-general and the director general of the Ordnance Survey). The commissions make recommendations to Parliament, which can accept or reject, but not modify, them. (A secretary of state can modify the recommendations before transmitting them to Parliament, but this has never happened).

The system for electing the lower house of the Parliament, the House of Commons, was introduced in the thirteenth century, and this system went largely unchanged for the next six hundred years. Each shire (or county) and borough was invited to send two representatives, one elected from among the landowners and the other by the enfranchised burgesses. When Scotland, Wales and Ireland were incorporated their members of Parliament (M.P.'s) were similarly elected. Changes to the system occurred largely as a by-product of three nineteenth century franchise extensions expanding the (all-male) electorate: the Reform Acts of 1832, 1867, and 1885.

Before the 1832 Great Reform Act there were major variations in constituency electorates, a result primarily of nineteenth-century industrial urbanisation. The three nineteenth century redistributions reduced these differences by removing seats from the small boroughs and reallocating them to the rapidly-expanding shires. Most two-seat boroughs lost their separate status, and the new constituencies allocated to the shires returned a single M.P. By the turn of the twentieth century, most of the M.P.'s were elected from single-member constituencies.

The nineteenth century redistributions were undertaken by the House of Commons, and were carefully constructed by the government to favour its electoral interests. The modern system was not introduced until after the Second World War, in part as a response to requests for a redistribution during the 1930s.

¹ This case study was written by Ron Johnston, David Rossiter, and Charles Pattie for the Administration and Cost of Elections (ACE) Project.

Vivian Committee Recommendations for Redistribution

In 1942, the wartime coalition government established a committee, chaired by Registrar-General Vivian, to consider various aspects of the electoral system, including "the principles on which any [redistribution] scheme should be based." The Vivian committee identified equal representation as the basic principle for a Parliamentary democracy, with constituencies of equal population returning one member each, and set out four salient features to be taken into account during a redistribution:

- the need for a quota constituency, or an average number of electors per electoral district;
- the need for limits of toleration, indicating the allowable population variation around the quota;
- the need for continuity of constituencies, with change being proposed only where necessary so that M.P.'s could build lasting relationships with their constituents;
- the need for constituencies to conform to local government boundaries in order to provide community representation and ease of organisation for elections (which are conducted by local government officers).

Other recommendations suggested a time interval for redistributions and procedures for the four independent commissions to follow. Advice on whether each country should be guaranteed a minimum number of M.P.s was offered by the Vivian committee as well. The latter subject would become the focus of debate for the next fifty years.

The Redistribution Acts of 1944 and 1958

The first House of Commons Act (Redistribution of Seats), enacted in 1944, adopted many of the Vivian committee's recommendations. The act set the limit of toleration at plus or minus 25 percent of the electoral quota. It guaranteed representation for Scotland, Wales and Northern Ireland at their 1944 levels, as well as indicating a desirable maximum number of M.P.'s for Great Britain, thereby implying a maximum for England. The Initial Review of Parliamentary Constituencies, completed in 1947, was based on this act.

Before the review was completed, however, the boundary commissioners claimed that they were unable both to meet the 25 percent toleration limit and respect local government boundaries. The former requirement apparently dominated, since it came earlier in the act's Schedule of Rules. Parliament, however, determined that the "organic" requirement to represent communities should take primacy over the mathematical requirement of equal constituency population. They removed the 25 percent deviation rule and replaced it with a rule that constituencies should "be as near the electoral quota as is practicable." This new rule was placed after and, it was assumed, subsidiary to the rule regarding local government boundaries.

The commissions' First Periodical Reviews of all constituencies were reported in 1954. The 1944 legislation required them to be delivered within five to seven years of the previous review. This generated consternation among members of Parliament and party organisations, since constituencies were to be substantially changed soon after their creation, contrary to the Vivian committee recommendation on continuity. Thus the government amended the Redistribution Act in 1958, extending the time period between reviews to between ten and fifteen years (since 1992 it has been eight to twelve years).

Although the act was subsequently amended to take account of major local government changes in the 1970s and was then consolidated into a new one, the Parliamentary Constituencies Act of 1986, there were no further changes to the basic principles for redistributions.

Current Rules for Redistribution

For a complete list of the current rules for redistribution, see Election laws or constitutional provisions listing redistricting criteria for selected countries. A summary of the rules are as follows:

- a guaranteed minimum number of seats for Scotland (71) and Wales (35), a maximum and minimum for Northern Ireland (16-18), and a total number of seats for Great Britain (i.e. England, Scotland and Wales) that should not be substantially exceeded (613);
- a requirement that, "so far as is practicable," constituency boundaries should not cross major local government boundaries--although this requirement is less stringent for Scotland and, especially, Northern Ireland;
- a requirement that each constituency's electorate be as near the electoral quota as practicable, within the constraint of the previous rule (commissions may depart from that previous rule to avoid disparities in electorates among neighbouring constituencies);
- a statement that commissions may depart from strict application of the previous two rules "if special geographical considerations, including in particular the size, shape and accessibility of a constituency" make that desirable;
- an indication that the commissions should take into account the inconveniences that may be caused, and the local ties that may be broken, if they give full effect to the "equal electorates" requirement.

The rules include two that, in particular, give the commissions considerable flexibility:

- the commission can over-ride the requirement not to create constituencies crossing designated local government boundaries if this was necessary to avoid major disparities in constituency electorates;
- the use of "special geographical considerations" (of which size, shape and accessibility are cited as particular examples) to justify over-riding both the local government boundary and the equal electorates requirement.

A legal challenge in 1982 to the English commission redistribution claimed that the commission produced constituencies which varied much more than necessary from the electoral quota. This claim was rejected on the grounds that the commission is to recommend to Parliament, and the courts should only query a commission's sovereignty in the very special circumstance that a commission has clearly acted unreasonably. The courts did interpret the rules, however, as giving primacy to the "minimum change" clause added in 1958.

Steps in the Commission Process

Each commission operates in the following way:

1. The commission decides when to initiate a periodic review and announces its intention. (The four commissions are not required to act together, but do, although English redistributions normally take much longer to complete).
2. Each commission calculates its electoral quota, using the 1986 act formulation--the country's registered electorate on the "qualifying date" (when the review was publicly announced) is divided by its current number of seats.
3. In England, Scotland and Wales, the commissions determine each major local governmental unit's "theoretical entitlement" to seats, dividing its electorate by the electoral quota. (This is not done in Northern Ireland because local government units are not identified in the act).
4. If some theoretical entitlements would produce constituencies that are very large or very small relative to the quota, two contiguous local government units can be combined to achieve greater equality. (This has rarely happened).
5. Commission staff prepares a number of optional schemes for constituencies in each local government unit. Local government electoral wards are always used as the "building blocks"--this is not legally required (except in Northern Ireland) but has become the accepted *modus operandi*.
6. The commission evaluates the options offered and decides which one to put out to public consultation as its provisional recommendation.
7. After the public consultation (see below), the commission assesses the additional information and advice provided by the assistant commissioner who held the inquiry, and decides whether to modify or confirm its provisional recommendations. If it takes the latter course, the provisional proposals become the final recommendations; they are published and included in the final report to Parliament. If the commission decides to change any or all of its provisional recommendations (including a proposed constituency name), however, the changes are published and a further round of public consultation is initiated.
8. When all of the recommendations have been made final, the reports are submitted to Parliament through the relevant secretary of state.

For each constituency, the commission has to recommend a name (which can stimulate considerable local concern) and whether to classify it as a borough or county. Candidates are allowed to spend more money campaigning in county (rural) than in borough (urban) constituencies.

The Public Consultation Process

Public consultation was included in the nineteenth century redistribution process, but its nature was only formalized in the 1944 Redistribution Act. The 1958 act specified the circumstances in which a local inquiry is mandatory. The stages involved in the public consultation are as follows:

1. The commission publishes its provisional recommendations for a local governmental unit in one or more newspapers circulating in the area, and sends notices to all affected members of Parliament, political parties and local governments, giving details of the recommendations and indicating where maps showing the recommended constituencies can be viewed. Representations are invited within one month of the publication.
2. After the closing date for representations, if objections have been received from either at least one hundred local electors or one interested local authority, then a public local inquiry must be convened. This is chaired by a specially-appointed assistant commissioner (AC), who is invariably a senior lawyer. ACs must have no political affiliations and, in England (though not elsewhere) they must have no detailed knowledge of the area they are assigned.
3. Before the Inquiry, a document is produced summarizing the representations received; a full list of those making representations and the grounds for the recommendations is appended.
4. At the local inquiry, the AC invites those who made written representations to make oral submissions, where they may be questioned by the AC and cross-examined by others who have made representations. Some of those objecting to the provisional recommendations (mainly the political parties) offer alternative configurations for one or more constituencies. Electoral considerations cannot be discussed, but the proceedings are invariably dominated by the political parties and their representatives (including local governments, most of which are politically-controlled). They use the criteria in the rules, especially those concerning community ties and the inconveniences of change, to influence the AC to recommend constituencies to the commission which are in their own electoral interest.
5. On the basis of what has been read and, especially, heard, plus site visits when chosen, the AC's report summarises local opinion on the provisional recommendations, discusses any counter-proposals presented to the inquiry, evaluates the evidence, and recommends whether the commission should change its provisional recommendations.

This process may be repeated if a commission publishes revised recommendations after receiving an AC's report, but a further local inquiry is rare since the commissions will not

allow issues already fully covered in the previous proceedings to be reconsidered. (There were only two second local inquiries in the most recent review, which included eighty-three first inquiries).

Commissions can also conduct interim reviews to take account of either major local government changes or substantial population changes. Only one significant interim review has been undertaken. In 1990, the English commission recommended an additional constituency for the rapidly expanding new town of Milton Keynes.

Problems with the Review Process

The review process can be quite time-consuming. The latest review took four years to complete in England, with consideration of one county (Devon) taking 1,028 days to complete. More importantly, the rules are ambiguous, with standards that are subjective (such as "as far as practical") and no indication of the relative salience of the various criteria.

Some the particular problems that the rules and procedure create include:

- The guarantee of a minimum number of seats to three of the four countries ensures that they are over-represented relative to England, whose population is growing more rapidly.
- The method of calculating the electoral quota produces a built-in bias towards an increase in the number of seats. This is because constituencies that vary considerably from the electoral quota (because of "special geographical considerations") are included in the denominator, increasing the likely allocation.
- The allocation of theoretical entitlements to local government areas also tends to inflate the number of seats. This is because fractional entitlements are often rounded up rather than down.
- Different commissions can give different weight to the various criteria. For example, in the fourth review, the Scottish commission determined not to create any additional seats (after Parliament expressed a desire for no growth in the number of its members), whereas the Welsh commission created an additional two seats, even though Wales was already substantially over-represented.
- The same commission (especially the English commission, which has the largest task) can weight the criteria differently in different areas, giving an impression of inconsistency.
- The use of the registered electorate rather than the population, although beneficial because the electorate is enumerated annually, means that two to three million people may not be included in the count. The commissions cannot take this undercount into account when allocating seats, which may disadvantage areas with high under-enrolments (mainly inner cities), nor can they take an area's projected population growth into account.

- The local inquiry system allows the political parties to employ the various criteria to press cases which favour their electoral interests, without being transparent in their reasons and often using very spurious cases. Thus the strength of the advocacy may convince the AC, rather than the merits of the case.