

Electoral Collision Course?

The Boundaries and the Register

After May 2015

Lewis Baston

THE
CONSTITUTION
SOCIETY



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Contents

About the Author	5
Summary	6
PART 1	
The Rules for Drawing Boundaries	11
PART 2	
Individual Electoral Registration (IER)	21
PART 3	
The Crisis of 2015–20	36
PART 4	
How to Draw Fair Constituency Boundaries Despite Individual Electoral Registration	46
The Timing of Boundary Reviews	68
Conclusion: A Threat and An Opportunity	71

About the Author

Lewis Baston is a psephologist, biographer and historian, as well as being a research fellow of Democratic Audit. From 2003 to 2010 he was Director of Research at the Electoral Reform Society. He is a frequent commentator for outlets such as Progress, the Fabians and Conservative Home (as well as various BBC programmes) and author of several books of history and electoral studies.

Summary

- ◆ A common complaint about the constitutional reform programme pursued by the Labour governments of 1997–2010 was that it was disjointed. Individual measures were often argued in isolation, while the effects of changes upon other parts of the constitution were sometimes unexpected and surprising. The same problem has recurred under the Coalition since 2010, even in those bits of ‘the biggest shake up of our democracy since the Great Reform Act of 1832’ (Nick Clegg, 2010) that have been seen through to completion.
- ◆ Two of these changes, either of which could be argued for (and against) on their own merits, have created a particularly malign combination. These are the changes that were introduced in 2011 to the way parliamentary constituency boundaries are drawn, which were paused rather than cancelled in 2013, and the radical changes to the basis of electoral registration. A new, vastly complex, system of Individual Electoral Registration (IER) is in the process of being introduced. The system went live for new entries to the register from June 2014 but people already registered under the previous household system will be carried over at least until the General Election of 2015.
- ◆ After May 2015, however, the two measures will collide horribly. The current government intends (subject to Parliamentary approval) to purge the registers in late 2015. Even if (and this is doubtful) IER produces a more complete

and accurate register in due course, the post-transitional register in December 2015 is likely to be severely incomplete. The paused 2011 Act, though, insists that a boundary review begins exactly then, and that constituencies will be strictly based on registered electors. The result could be a fiasco that would also be extremely vulnerable to the charge of being a gerrymander.

- ◆ Every single piece of research into this area suggests that a deteriorating electoral register will have disproportionate effects on certain social groups. Young people, urban dwellers, people sharing houses, people renting in the private sector and certain ethnic minorities are the most likely to not be registered in the first place. They are also more likely to drop off the register under IER, making an IER register even more skewed towards people of retirement age, rural and suburban dwellers, owner-occupiers (and long-resident social tenants) and so on. Even if, as in 2010, young people decide late in the day to register and vote, their voice will be diluted in oversized constituencies.
- ◆ The social bias of registration at present, and even more in the case of IER in future, has partisan implications. Labour and Liberal Democrat support tends to be higher among groups that will disappear from the register (and in areas where such groups are concentrated). Conservative and UKIP support is concentrated among easy-to-register groups. Not only does this bias participation, the combination of IER and the boundary rules will mean that the bias seeps into the very structure of the electoral system.
- ◆ The government elected in 2015 should, first, thoroughly review the state of the electoral registers before proceeding with a boundary review, and be aware of the impact of purging the registers between May and December 2015.

This paper suggests methods for a government to avert the dangers that are looming in 2015–20, and also offers a more permanent and reliable method of determining how to draw the boundaries. While there is an obvious incentive for a Labour government, or Labour-Lib Dem government, elected in 2015 to take up these suggestions, the argument is also aimed at Conservatives with a sense of fairness, who would object to the gross under-representation of urban England. In any case, if it comes to renewing the coalition arrangements between the Conservatives and Liberal Democrats after 2015, the Liberal Democrats might consider it right, and in their prudent self-interest, to avert what might happen to their seats where many of their supporters are going to vanish from the register. Part 3 of this paper looks at the possible consequences for IER on the electoral map of Britain, and they are ugly.

- ◆ The electoral register has been deteriorating for years, and will not be fit for this purpose in future. An alternative, and much more stable and reliable, basis for drawing the basis for parliamentary constituencies is fortunately available in the decennial Census, by far the best and most complete record of the UK population available. Internationally it is more common to use population, rather than registered electorate, as the base number for allocating seats. While this would mean a break from the past pattern of allocating seats in the UK, a middle option is available in the form of using the data from the Census to arrive at a number for each nation, region, local authority and ward of people entitled through age and nationality to appear on the electoral register. This would be an aggregated number in order to preserve the principle of Census confidentiality.

- ◆ The short term problem, of averting the risk of the 2015–18 boundary review being quite so biased and flawed, needs to be addressed with primary legislation before the review has started, and therefore specific wording in party manifestos and coalition agreements is required in order to speed the Bill through the House of Lords. The paper, in Part 4, offers suggested means of doing so, through a short Bill to restore the number of seats to 650, widen the permitted variation in size to around 10 per cent, and establish more special cases to prevent the recurrence of unworkable or unpopular proposals like the ‘Devonwall’ seat. Ministers should also refrain from bringing forward secondary legislation (permitted in the 2013 Act) to purge the registers between May and December 2015.
- ◆ In the longer term, the basic model of the 2011 Act could then be amended in order to use the Census-derived base numbers. This might be accomplished by allowing ministers to change over to Census-based districting by secondary legislation, once agreement with the Office for National Statistics (ONS) had been reached on the mechanisms by which the numbers are to be produced. A clause to this effect could be put in the short 2015 Bill which would amend the 2011 Act as specified above.
- ◆ Some of the specific flaws in IER may be best dealt with by ministerial action, in association with electoral administrators and the Electoral Commission, and that the pressure remains strong to achieve elector-friendly and efficient methods of achieving the democratic imperative of a complete and accurate electoral register.
- ◆ Readers will note the calculations in the report are based on the assumption that Scotland remains part of the United Kingdom in 2020. If this proves not to be the case, the numbers change but the basic argument does not.

- ◆ Some of the calculations are also based on the stated Labour Party policy of reducing the voting age to 16 (something that may make IER a lot easier and more complete). Without this, the numbers will be slightly different but not enough to change the argument.
- ◆ The author would like to thank Nat Le Roux of the Constitution Society for commissioning the piece, Andrew Blick for his editorial help and support, Stuart Wilks-Heeg for his advice, and several politicians and electoral administrators who would probably prefer to remain anonymous, but are appreciated none the less.

Lewis Baston, August 2014

PART 1

The Rules for Drawing Boundaries

The Parliamentary Voting System and Constituencies Act 2011 was a product of the coalition negotiations that followed the inconclusive election result of May 2010. The Liberal Democrats had long championed electoral reform, and insisted on some movement in this direction. The Conservatives conceded that there would be a referendum on introducing the Alternative Vote (AV) but in exchange they would implement their policy on rewriting the rules which govern how constituency boundaries are drawn. The Conservatives had long complained that the inequalities in the size of constituencies unfairly disadvantaged them.¹ The two separate measures were yoked together in one Bill, so that – in these early stages of the coalition – both parties would have an interest in seeing the Bill passed.

The Act made a number of radical changes to the way in which parliamentary constituencies are designated. Before looking at how the system interacts with Individual Electoral Registration, one needs to understand how the new procedure for drawing up constituencies is supposed to work and how it differs from the previous method.

1 This belief is largely inaccurate – the dominant reason for the apparent Labour skew in the electoral system is that in safe Labour seats turnout is very low, while the same is not true of most safe Conservative seats.

1. Size of the House of Commons

Under the previous system the size of the House of Commons was not fixed, and the total number of seats was affected by a large number of independent decisions about particular localities. There was a tendency for the number to drift gently upwards, as the following table shows:

Period	Number of parliamentary constituencies	Notes
1950–55	625	
1955–74	630	
1974–83	635	
1983–92	650	Northern Ireland representation increased from 12 to 17 following Direct Rule
1992–97	651	Interim review awards extra seat to Milton Keynes
1997–2005	659	
2005–10	646	Scottish representation reduced from 72 to 59 following devolution
2010–	650	
2011/13	600	Proposed but not implemented

The starting point of the new system is that the size of the House of Commons is 600, and entitlements of areas to constituencies are calculated from that starting point, first to the constituent nations of the UK and then to regions and localities. In practice, it was slightly more complicated because the legislation specifies four exceptions: the island groups of Na h-Eileanan Siar and Orkney & Shetland have two preserved constituencies, and the Isle of Wight is allocated two seats to avoid the absurd creation of a cross-Solent constituency. There are thus 596 normal

constituencies. Thanks to a Lords amendment, the legislation also specifies that a review of some sort must take place into whether 600 seats is the appropriate size for the House of Commons, once the change has been made.

2. Primacy of Equalising Constituency Size

The previous rules for drawing boundaries incorporated a number of criteria that the Boundary Commissions should take into account in producing their recommendations, although the relative importance of each one was not specified and the Commissions tried to balance different considerations against each other. The size of the electorate in the constituency was one of these considerations, and contrary to some mythology about the subject it was an important one. The Boundary Commissions in general, and the Boundary Commission for England (BCE) in particular, tended to give an increasing priority to getting the numbers roughly equal in successive reviews.

The 2011 Act replaced this system of satisficing the competing criteria with a clearer order of precedence. Other than in the four special cases (plus a contingency for the case in which Northern Ireland would cause a problem because of the small size of the province's parliamentary delegation), no constituency was to deviate from the national quota by more than 5 per cent. The national quota is determined by dividing the registered electorate of the UK at the specified date (less the four special cases) by 596.

The rules would also be applied evenly to each of the component nations of the UK; while there would still be four separate Boundary Commissions they would all use the same UK quota to

determine the ideal size of a seat.² Under the pre-2011 system, the allocation of seats to Wales had been more generous than that in the other parts of the UK (a similar anomaly affecting Scotland was corrected in 2005 following the devolution of legislative powers).

The rigid rule on size meant that it was frequently arithmetically impossible to observe sub-national boundaries that had been respected in previous reviews, notably county boundaries in England – with the Cornwall/ Devon border being the most controversial case. But other considerations such as community ties, administrative and physical geography and so on were to be taken into account in judging between alternative schemes that satisfied the 5 per cent criterion. The BCE decided to respect the English regional boundaries and performed heroic contortions to observe the principle that local government electoral wards should not be split.³

One may note that the registered electorate has been the basis of reviews long before 2011 and that under the previous rules the Commissions were not allowed to take changes in the electorate (actual and anticipated) subsequent to the enumeration date into account, or the completeness of the electoral register. The Fourth Periodic Review (1991–95) was probably the first to be contaminated by systematically inaccurate data because of the differential drop-off in registration in many inner urban areas caused by the 1990 introduction of the ‘poll tax’; prior to that, there appears to have been little problem with differential incomplete registration.

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- 2 There is a get-out for the Boundary Commission for Northern Ireland in the event that the average seat size in the province is significantly different from the UK quota, and a dispensation to the Boundary Commission for Scotland to limit the geographical size of constituencies – a mechanism that was not used by the BCS in its 2011–13 review.
 - 3 In its 2012 revised recommendations, it decided to split one ward in Gloucestershire.

The difference since 2011 has been that this one measure – electoral registration on the relevant date – is not one of several factors, and is being equalised to a very demanding degree. Much of this paper will examine the implications of this rigid system of drawing boundaries and the adequacy of the electoral register.

3. Larger Review Areas

Before 2011 the BCE and BCW produced their recommendations county by county. A whole number of seats was proposed for each county, based on dividing the county's electorate by the national quota⁴ and rounding up or down.⁵ There would then be local consultations and public inquiries for each review area.

The system had changed a little over time because of local government reform and a shift in policy on London. The Boundary Commission for Scotland (BCS) in its reviews before the 1983 and 1997 elections had respected the boundaries of the Regions created in 1975, but these were replaced by smaller single-tier local authorities in 1995 and the BCS did not have many useful sub-national boundaries in drawing the constituencies that came into use in 2005. The BCW, in contrast, has worked with bizarre 'preserved counties' since the Welsh counties were abolished. In the last two old-style boundary reviews, the BCE has also decided to take London in two chunks rather than a separate review for each borough, and it has also grouped many smaller

4 The post-2011 system uses a single UK quota to determine the ideal size of a constituency, while the previous system used a separate quota for each component nation.

5 Usually the rounding was upwards, for the slightly arcane reason that one needs to use the harmonic mean rather than the arithmetic mean to get constituencies close to quota. For example, if a county has a strict entitlement of 2.46 seats, should one round up to 3 or down to 2? If you give it two seats, each is 1.23 times the ideal size, a deviation of 0.23. With three, each is 0.82 times the ideal size, a deviation of only 0.18. You round up.

unitary councils with their neighbours (e.g. the four Humberside councils together, and Plymouth and Torbay grouped with their ‘parent county’ of Devon).

4. Public Consultation

The previous system involved public inquiries in areas in which there were sufficient objections to the provisional recommendations produced by the Commission. This was one of the principal reasons that boundary reviews could take many years – not just that the inquiries could be time-consuming, but also that there was a limited supply of barristers who could serve as Assistant Commissioners and hear the evidence and write reports.

Thanks to some useful amendments during the PVSC Bill’s progress through the House of Lords, the new system still has public hearings (less formal than the public inquiries) in which evidence is taken. The new system also has an extended comment period in which the Commission will receive representations. Critics of the new system, including this author, were pleasantly surprised by how the public hearings were conducted, and it would not make sense to return to the general use of public inquiries on the old models (there may be a case in special circumstances).

Although the mechanisms for consultation may be technically better, there is a powerful sting in the tail. There are, broadly, two sorts of alternative proposals offered during the consultation process:

- ◆ Local objections, for instance people complaining that their town is divided by the proposals, or is grouped with inappropriate places with which the town has little connection; and

- ◆ Comprehensive alternative schemes, mostly proposed by the political parties (and designed to serve that party's interests).

The problem is that the first sort of objection could be accommodated under the pre-2011 process but will have knock-on effects under the rigid rules on electorate size under the new process. Keeping Town A together may require the division of Town B, and the consequences may ripple to the other side of the region: like smoothing down air bubbles in wallpaper, local objections may just move the problem elsewhere under the new rules. There are often invidious choices about which towns are most deserving of being kept together.

5. Speed of Reviews

The old rules sometimes involved a ridiculously long process before implementation. The last old-style boundary review was based on electorate numbers from February 2000, was completed in 2007 and implemented in 2010. It does not always take that long – the previous review was finished in 1991–95 – but it was sensible to reduce the period of delay. The new rules require that it is done in a little under three years, from an enumeration date in December 2015 to a completed Order implementing the changes put before parliament in September 2018.

6. Frequency of Reviews

The system enacted in 2011 means that there is a boundary review every five years. Assuming that the intention of the Fixed Term Parliaments Act 2011 is fulfilled, this means that no two successive general elections will be fought under the same boundaries. If there are early elections, the timetable gets complicated. A previous set of rules involving frequent reviews

was changed in 1957, as MPs complained that it destabilised the constituency relationship that is the basis of the electoral system.

The Hart Amendment of 2013

Some observers may be under the illusion that discussing the boundary rules that were proposed in 2011 is irrelevant because the changes were cancelled in January 2013. This is far from true. The new boundary system has been postponed rather than scrapped.

The unexpected reprieve for the constituency map of 2010 arose from the vagaries of coalition politics. As we have seen, the double-headed nature of the PVSC Act itself arose from coalition management, being a portmanteau of something the Liberal Democrats wanted and the Conservatives did not (the referendum on electoral reform) and something the Conservatives wanted but which senior Liberal Democrats arguably did not understand. However, in summer 2012 a Conservative backbench revolt led to the withdrawal of the government's proposals for Lords reform, which had been a Liberal Democrat priority. For the first time in the coalition, Deputy Prime Minister Nick Clegg announced that as a reprisal for this, the Liberal Democrats would be voting against the order to implement the 2011–13 boundary review in October 2013.

In autumn 2012 Labour, crossbench and Liberal Democrat peers had the idea of avoiding the uncertainty and wasted effort of the boundary review continuing until voted down in October 2013 by attaching an amendment to the Electoral Registration and Administration Bill. The government paused consideration of the ERA Bill but the timetable for implementing electoral registration was becoming too tight and the amendment was debated and voted upon in the Lords in January 2013.

The Hart amendment, now enacted as Section 6 of the Electoral Registration and Administration Act 2013, was a simple but effective piece of drafting which delayed the implementation of the new boundary review system for five years. It cancelled the changes based on the December 2010 register that would have otherwise been implemented in time for the 2015 election. It was passed in the House of Lords on 14 January 2013 by a majority of 300–231, and then upheld in the House of Commons on 29 January 2013 by an unexpectedly generous margin of 334–292. The 2015 election will take place using the constituency boundaries that were introduced in 2005 in Scotland and 2010 everywhere else. The Boundary Commissions abandoned work on the Sixth Review when the Act received Royal Assent.

The relevant amendment is cited below.

**6 Amendment of Parliamentary
Constituencies Act 1986**

(1)In section 3(2)(a) of the Parliamentary Constituencies Act 1986 (timing of Boundary Commission reports), for “before 1st October 2013” substitute “before 1st October 2018 but not before 1st September 2018”.

(2)In section 11(2) of the Parliamentary Voting System and Constituencies Act 2011, for “1 October 2013” substitute “1 October 2018”.

(3)In section 14(3) of that Act, for “2015” (in both places) substitute “2020”.

From www.legislation.gov.uk/ukpga/2013/6/section/6/enacted as accessed 7 August 2013.

It is important to realise that the Hart amendment did nothing to change the rules that were introduced in the 2011 Act. It means that the boundary review timetable will start again, working towards a report which must be completed during September 2018. The 2011 Act specifies that:

The “review date”, in relation to a report under section 3(1) of this Act that a Boundary Commission is required (by section 3(2)) to submit before a particular date, is two years and ten months before that date.

From www.legislation.gov.uk/ukpga/2011/1/section/11/enacted as accessed 7 August 2013.

This means that the electorates (and also ward boundaries) that the review reporting in 2018 will be using are those for December 2015. The amendment was an exercise in what American politicians call ‘kicking the can down the road’. The problems created by the boundary system that was enacted in 2011 have not gone away, merely been postponed.

The state of the electoral register in 2015 will, unless the law is changed, determine the distribution of constituencies to the nations, regions, counties and cities of the United Kingdom. It is time to take a look at the electoral register and what is happening to it at the moment.

PART 2

Individual Electoral Registration (IER)

There are essentially two related registration tasks that need to be completed to make the UK electoral system work. One is to identify all the people who are entitled to vote. This involves two dimensions:

- ◆ **Completeness.** A register is incomplete if there are people who are entitled by law to vote but are not included on the register.
- ◆ **Accuracy.** A register is inaccurate if there are names on it that do not correspond to individuals entitled to vote.

The second task is to match individuals entitled to vote with a geographical location. The British electoral system is based on locality. Electors are grouped into geographically-defined constituencies and wards. There are a few loose ends in which the match to an area is not simple (for instance students, second home owners and expats), but the core of the system involves combing an area for people, listing them, counting them and then issuing ballot papers to them when elections come round. The electoral system involves linking an elector to a fixed geographical location in which that person would vote, and it is easier to find a geographical location and then identify the people there, than it is to find people and then tie each person to a geographical location.

If one's objective is to compile a register of all people entitled to vote, one may feel there is an obvious way of doing it. This would involve, every year, sending a form to each household, return of which was compulsory, imposing a duty on the occupant (or if unoccupied, the owner) to send a list of people who are eligible. Households which have not returned the form would then be followed up with further legal notices, the threat of a fine for non-compliance and a doorstep canvass to determine whether there were eligible electors there.

This is, more or less, the system which will be replaced by Individual Electoral Registration (IER).

There is no huge public demand to change the system. The current system of household registration is a public service that commands a pretty high level of satisfaction from its users – 86 per cent of people surveyed by the Electoral Commission were satisfied with the registration process.⁶ It seems to be more accurate than many other government-held databases of citizens.

Despite all this, few people seem willing to criticise the essential idea of IER. The Electoral Commission has argued for IER since 2003, and it seems to form an important part of the Commission's idea of what it should be doing. The Labour government legislated for IER in the Political Parties and Elections Act 2009, providing for a phased transition to be completed after 2015. The Coalition Agreement in 2010 promised to accelerate this timetable and introduce IER in time for the 2015 general election. The principle, if not the timetable and detail, of IER is therefore a matter of consensus with only a few backbench Labour MPs such as Siobhain McDonagh disagreeing.

6 *Electoral Commission Report on the Administration of the 2010 General Election* p43 www.electoralcommission.org.uk/__data/assets/pdf_file/0010/100702/Report-on-the-administration-of-the-2010-UK-general-election.pdf

Why Individual Electoral Registration?

Electoral Fraud

The principal argument used by its proponents involves electoral fraud. The Coalition Agreement⁷ of 2010 states:

We will reduce electoral fraud by speeding up the implementation of individual voter registration.

This takes it as axiomatic that speeding up IER would reduce electoral fraud, but this is a debatable proposition.

Until fairly recently there was little research on the extent of electoral fraud in the UK, and folklore and allegation is more frequent in the area than fact. Research into perceptions of electoral fraud is clouded by what this author calls ‘the medical dictionary effect’ (it may have a formal psychological name). Once one starts thinking about how the system could be defrauded, one becomes more inclined to believe that it is being defrauded; a focus group could easily become a brainstorming session on how to do it.

Managing public perceptions on this sort of thing is therefore a bit of a fool’s game, but it is the principal burden of the government’s argument for IER. To quote the Cabinet Office Impact Assessment for the acceleration of its introduction:

*There is a **widely held view** that the current system for registration is vulnerable to fraud and a **public perception** that this allows electoral fraud to occur. The Government is therefore proposing legislation that will replace the relevant sections of the Political Parties and Elections Act 2009 (PPE Act) introduced during the last*

7 The Coalition: Our Programme for Government www.gov.uk/government/uploads/system/uploads/attachment_data/file/78977/coalition_programme_for_government.pdf Section 24 ‘Political Reform’

Parliament. This will speed up the implementation and introduce Individual Electoral Registration (IER) within the life of the current Parliament (in 2014) and help to rebuild public confidence in the security of electoral registration.⁸ (Emphasis added)

It should be noted that there is no real attempt to quantify the level of fraud – ‘public perception’ is enough to justify this expensive, complicated set of changes that are more likely to worsen than improve the completeness of the register. Just as transparency may be a good thing in many ways, it has not restored confidence in Parliamentary standards, to take a topical example, and it is doubtful that IER will have a positive effect on public confidence.

Fraud does happen (as a regular trickle of cases prove), although it appears to be a localised phenomenon, an aberration rather than a systemic feature. The electoral system does work, to a startling extent, on trust, but the IER system only really addresses one form of electoral fraud (the fraudsters setting up bogus register entries at an address they control and then harvesting postal votes or, at a stretch, organising personation at polling stations). In the light of the Birmingham case in 2004 that revealed large-scale postal vote fraud, some changes were legislated in 2006, and combating fraud is probably better done by closing other options and targeting local problem areas rather than changing the entire system. The risk is that, when IER fails to stop all fraud and restore public confidence, ever more draconian steps will be taken to restrict access to the voting process.

The rhetoric around IER bears worrying similarities to the situation in the United States, where allegations of widespread electoral fraud (usually completely without substantiation or research) are used to inflame concerns and provide cover for

8 *Individual Electoral Registration Impact Assessment Cm8109, June 2011 p1.*

legislation intentionally making it more difficult for particular demographic groups (young people, city dwellers, students and so on, the very people who are the most marginal on any registration process) to register and vote. The partisan agenda in that case is obvious, and it would be a shame if such political techniques were imported to the UK.⁹

In criminal justice, the burden of proof is ‘beyond reasonable doubt’. The rules of the process acknowledge that denying an innocent person their liberty is a very serious matter, and it is better that a guilty person goes free than an innocent person is punished. In democracy, while every reasonable measure should be taken to reduce fraud, it is worse to deny a citizen their legitimate vote than it is to have some people on the register who should not be there. Incompleteness is a more fundamental problem than inaccuracy.

‘Out of Date’

Also from the Impact Assessment:

It will also take steps to improve the completeness of the register, and address the increasingly outdated household system of electoral registration

It is by no means clear that household registration is outdated, let alone ‘increasingly’ so. A large part of the public relations problem of the old system was the old-fashioned term ‘head of household’ which instantly conjures up mental images of a 1950s patriarchal family, even though anyone can be ‘head of household’ for these purposes.

9 There is an interesting recent judgment on voter ID laws and perceptions of fraud in Wisconsin (text here media.jrn.com/documents/adelmanorder.pdf) 29 April 2014 *Frank v Scott*. The judgment also has interesting reflections on the lack of relationship between voter ID restrictions and public confidence in the process.

The assertion that IER will improve the completeness of the register is sheer blind faith and has been borne out by no evidence or indeed logic. It is a defensible argument that IER will improve accuracy, but a claim for improved completeness is bizarre.

The Electoral Commission's research finds that the parliamentary electoral register in 2014 was around 85 per cent complete, and the IER register in Northern Ireland (according to another Electoral Commission study in 2012) was 71 per cent complete.¹⁰ It is also worth reflecting on the finding that 44 per cent of the unregistered inaccurately believed that they were on the electoral register.

Up to date systems are generally instantly responsive; people think about their entitlement to vote as the election approaches, but not at other times.

It is for this reason that late registration was a significant modernisation that worked with the grain of how people interact with officialdom; but the combination of IER and being able to register during the election campaign is a serious burden that will be placed on administrators in 2015. This problem was entirely created by the acceleration of the introduction of IER; in the longer term an efficient IER system can probably help, because of the facility for people to register online without a wet-ink signature, but for now it is an unnecessary complication.

10 Electoral Commission *The Quality of the Electoral Registers in Great Britain 2014* www.electoralcommission.org.uk/__data/assets/pdf_file/0005/169889/Completeness-and-accuracy-of-the-2014-electoral-registers-in-Great-Britain.pdf and *Great Britain's Electoral Registers 2011* www.electoralcommission.org.uk/__data/assets/pdf_file/0007/145366/Great-Britains-electoral-registers-2011.pdf and also Electoral Commission *Continuous Electoral Registration in Northern Ireland* www.electoralcommission.org.uk/__data/assets/pdf_file/0004/152626/Continuous-electoral-registration-in-Northern-Ireland.pdf

Responsibility

The Electoral Commission in particular seems fond of claiming that there is some intrinsic good in people taking responsibility for their own electoral registration. This idea was taken to its extreme in the government's initial Bill, which essentially made registration voluntary, but fortunately it was amended to restore the individual's duty to register. It remains unclear as to what might happen in cases of consistent non-compliance, or whether councils have the resources to chase non-compliers up.

However, the point of the register is to list those entitled to vote and allot them to geographical areas, and finding the most efficient and cost-effective method of doing this is the priority regardless of who does it, and reducing the number of points at which it could go wrong seems more logical than increasing it.

The unfortunate fact, which is hard for politicians of any party to acknowledge, is that when one leaves it to individuals to take responsibility for making administrative arrangements, they will often not do it.

Even when there is a serious financial incentive, people often do not comply with official requests for information. For example, the Self-Assessment Tax Return system involves around 10.5m people, mostly drawn from higher earners, and there is a 7 per cent late return rate even among this group despite severely escalating penalty charges that start at £100 from the first day.

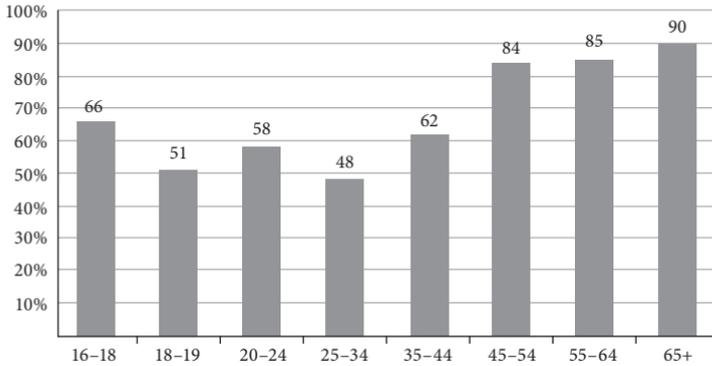
IER – The Evidence So Far

IER in Northern Ireland

A recent Electoral Commission report on registration in Northern Ireland under IER has painted a worrying picture. The headline

rate of 71 per cent completeness of the register is embarrassingly bad and the scale of recent deterioration is alarming. The demographic pattern is also alarmingly uneven, in the way that everyone who has ever looked seriously at the issue shows – registration levels among older electors are comparatively good, but up until the mid-30s age group it is catastrophic.

Figure 1: Completeness



Source: Electoral Commission, November 2012 www.electoralcommission.org.uk/_data/assets/pdf_file/0004/152626/Continuous-electoral-registration-in-Northern-Ireland.pdf Figure 7

IER in Northern Ireland has particular problems keeping up with people who move house, as one would expect from a system that does the trickier job of keeping track of people as opposed to geographical locations. The Electoral Commission research noted:

4.45 ... the lag time between moving into a property in Northern Ireland and getting onto the register is substantially longer than in Great Britain (for example, the completeness rate for those resident for 1 – 2 years was

78% in Great Britain and 34% in Northern Ireland. They do not come close to converging until people have been resident for over 5 years).

The Electoral Commission recommended a series of steps, as a matter of some urgency, to improve the register before the 2014 local elections. The main strand of this work is:

Household registration activity, involving all necessary steps to identify who is entitled to be registered in respect of a property, to improve the accuracy and completeness of electoral registers.

There may have to be further remedial action in 2014–15 including perhaps a full canvass, in order to get the registers into a respectable state for 2015.

In some ways, the IER process used in Great Britain has learned from the flaws of Northern Ireland and it is to be hoped that this will have a beneficial effect on the registers in Great Britain. But we will not know whether this happens, or to what extent, until well after December 2015. There may be the need to bring in emergency quick fixes, as was done before the 2005 election when a large number of household registrants were restored overnight. The Northern Ireland model is different in that it is continuous registration, rather than based (as Great Britain will still be) on an annual canvass, and this contributes to deteriorating accuracy. However, the IER legislation in Britain allows ministers to abolish the annual canvass with secondary legislation, a potentially worrying development.

Against the improved administrative and data matching arrangements in Great Britain, there are some things that are easier in Northern Ireland. In Northern Ireland there is only one Electoral Office (EONI) and therefore provision should be uniform, regardless of physical geography or demographics.

EONI is a larger electoral registration authority than any in Great Britain and can presumably benefit from economies of scale in technology and methods, as well as its longer experience running IER. Some of its methods, such as its schools outreach programme which seems to have achieved a respectable level of registration among 16–18s, are undoubtedly effective. Authorities in Great Britain will probably take some time to learn the lesson.

EONI is also a separate body, while electoral registration offices in England and Wales are run by local authorities (and in Scotland by Joint Valuation Boards). There are 326 in England, 22 in Wales and 14 in Scotland. They are subject to some of the enormous (and unevenly borne) pressures on local authority budgets in England and Wales in particular. While there has been Cabinet Office support for some of the areas with the worst problems in the transition to IER, there are concerns that councils covering mixed areas will not manage to get to the hard-to-reach cases, and whether funding will be sufficient to achieve the continued improvement in the level of IER coverage, rather than seeing it slip back as in Northern Ireland.

IER in Australia

Even with a well-established IER system, as in Australia, there are still significant problems with completeness. The Australian Electoral Commission (AEC) estimates that 91.4 per cent of eligible Australians are enrolled, i.e. 1.37m ‘missing’ from an eligible population of 15.9m. Overall completeness has been consistently 90–92 per cent.¹¹

This is about the maximum that can be expected. Electoral registration for the Commonwealth Electoral Roll is conducted

11 For information on the Australian system see aec.gov.au/Enrolling_to_vote/Enrolment_stats/index.htm.

by the Australian Electoral Commission, a national body – elections to state parliaments are on the basis of the electoral roll in the relevant area as maintained by the AEC. The barriers to joining the register are also fairly low; it is sufficient to have an existing elector vouch for you, although a driving licence or passport will also work.

The fact that there is a single national register in Australia has several important consequences for registration:

- ◆ There is no variation based on differences in resources between different local authorities. The AEC can therefore target its efforts on the places where it is most difficult to register electors and on the groups with the worst levels of registration, wherever they are.
- ◆ It is much easier to ensure that electors do not fall between the cracks, because a single body has responsibility for all Australians while local EROs in Britain have responsibility only within their areas. While there is one electoral registration body in Australia, as we have seen there are 363 in the United Kingdom. The AEC can benefit from economies of scale in running services for hard-to-reach electors.
- ◆ The AEC has been running the IER system for a long time and has accumulated experience and expertise in the system.

Even with all these advantages, there are still systematic problems. The worst is with young people. The AEC manages to enrol 77–82 per cent of people aged 18–25. Their systems for enrolling new citizens, however, seem effective, with 90–94 per cent registration compared to a 95 per cent target. AEC officials attend citizenship ceremonies to provide information including pre-completed electoral enrolment forms drafted in co-operation with the Department of Immigration and Citizenship, a method that may be commended to local authorities in the UK.

It is worth noting also that the political interests of the Australian government party seem to affect the AEC's outreach priorities. It is notable that during the 1996–2007 Liberal-National government there were no programmes specifically for raising registration among indigenous people, but that the Labor governments before 1996 and after 2007 did consider this a priority.

The Process in Great Britain

It is too early to come to a final view on the transition to IER in Great Britain – indeed, part of the point of this paper is that we will not know for years whether the registers can be regarded as fit for purpose, and one should be very careful in using them for purposes such as drawing constituency boundaries. But the results so far are disappointing.

The arrangements for IER are extremely complex, something that means that it is difficult to get a firm understanding of what is going on. The principal method used so far has been 'confirmation' which is matching register entries to Department of Work and Pensions data to confirm identity and retain people on the electoral register. There was a 'confirmation dry run' in 2013. Of the existing registers, 78.1 per cent of entries were successfully matched ('Green') with DWP data, while 18.8 per cent were unmatched ('Red'). The remaining 3.1 per cent were fuzzy matches ('Amber') where not all data fields matched. It should be borne in mind that anything less than 100 per cent is a deterioration from the existing, unacceptably incomplete, registers. The pattern is the inevitable one – worse results in urban areas, among young people and private renters and some ethnic minorities – and in the case of London it is dramatic. The work in Part 3 of this paper illustrates quite how severe it is.

The government had hoped to use ‘data mining’ from other official databases in order to fill out the registers. This technique failed abjectly.

Data mining might work well if the coverage of each database were statistically independent. For instance, say that DWP database gave 75 per cent coverage and the NHS database gave 60 per cent coverage. Independence would mean that consulting the NHS database would help locate a large proportion of the missing 25 per cent (60 per cent of it, i.e. 15 per cent of the population). Combining the databases would produce 90 per cent coverage of the target population. Using another couple of statistically independent databases, even if their coverage was poor, would get you up to 95 per cent or so.

Assuming statistical independence can be seductive but extremely misleading – applied to cot deaths it led to several wrongful convictions. No government statistician can have expected the databases’ coverage to be entirely independent, but the extent of overlap that was revealed by the data mining pilots was startling. Combined with the massive practical problems of the exercise which emerged in the pilot studies, the normally quietly-spoken Electoral Commission concluded that:

The evidence from this pilot suggests that data mining, as it was tested, is not a practical way of identifying unregistered electors.

Electoral Commission *Data mining pilot – evaluation report* July 2013, p3.

Some of the databases with which the registers might be matched (or which might be mined for extra names) risk doing more harm than good. Many electoral administrators are worried about heavy use of these databases because some of them (including Royal Mail and the Department of Work and Pensions) include large numbers of foreign nationals, and feel that it would be

inappropriate to send out standard letters inviting them to apply for registration. They were also concerned about the risk to their reputation of writing to under-age or dead names returned from the databases.

Local data mining seems to have been somewhat more successful, with about 7 per cent of the electorate being identified by databases held by local authorities (housing, council tax and council tax benefit principally). But it still cannot fill the gap. There is every sign that important details are still being made up on the wing, for instance a suggestion made by the government in November 2013 that it might bring forward secondary legislation 'enabling not compelling' data sharing in two tier local government areas between the counties and the district councils that conduct registration, but there are no real incentives for county councils to comply.

The process has revealed no end of headaches in matching up government databases with each other. If one were really trying to get a good database from which to build an IER register, one might wish to start with, say, a national ID card system... much of the IER system seems to involve a Heath Robinson method of cobbling together an identity database. The complexity and extent of data sharing is probably more of a risk to privacy than a national register. The process, particularly checking late registrations during a pressured electoral period, puts a considerable weight on the DWP's data handling abilities. This is confidence indeed in the people who brought you (or, more accurately, did not bring you) Universal Credit and spent a lot of money unproductively in doing so.

What to Do About IER?

It is too late to stop IER. It came into force for new registrants and postal vote applications from 10 June 2014.

There may be ways to ameliorate IER's effects on the completeness of the register, and no doubt electoral administrators – provided they are given the tools and resources to do so – will experiment with ways of improving completeness. Lowering the voting age may even help, by entering people on the register while they are still at school. There may be a case for reintroducing a measure of collective household registration in some cases alongside IER where people have complied with it, based on strengthening the Household Enquiry Form (HEF) mechanism and of course maintaining the annual canvass rather than abolishing it.

It might be possible, over a very long learning and transition process, and heavy spending on it, to approach the sort of performance attained in Australia. But there are no guarantees, and it is likely that the registers will be systematically incomplete, and incomplete in a socially and politically biased way, for some time. Even if one accepts the arguable point that IER will produce a better register in due course – and the Northern Ireland example suggests that IER registers can deteriorate sharply without an annual canvass and continued investment – it is unlikely to be in good shape in 2015.

PART 3

The Crisis of 2015–20

One of the basic applications of the electoral register is in determining the allocation of parliamentary constituencies to local areas. Thanks to another piece of government legislation, the Parliamentary Voting System and Constituencies Act 2011, a poor-quality register in 2015 could have some very serious consequences. It could result in a gerrymandered electoral map in which the cities are disproportionately under-represented. Whether this is deliberate or not, it would be a disaster for democracy.

The government elected in May 2015 will have a choice. The legislation introducing IER was amended to push the end of the transition period back to 2016, but the government can, by secondary legislation, bring it forward again to December 2015. This would mean purging the registers of the held-over household registrants after the election but before the enumeration date for the boundary review of 2015–18. Ministers in the current government appear to want to do this, regardless of the completeness of the registers that will be left in place. According to the Electoral Commission:

While there is uncertainty as to whether the point of removal of electors that have not provided personal identifiers will be in 2015 or 2016, it is our view that EROs should plan on the basis that they will have to be ready for the point of removal to be 2015.

Bringing forward an order to purge the registers before the enumeration date in December 2015 would be scandalous unless the IER registers are in a much better state of completeness and accuracy than we can realistically hope to reach by then. Unfortunately, it appears to be the current intention of ministers.

The interaction between the post-2014 system of registration and the post-2011 system of drawing constituency boundaries is fraught with danger. If the register numbers in December 2015 are inaccurate, the boundary review will contaminate the entire basis of the electoral system.

An important point about the impact of the registers on boundary determination is that, while both inaccuracy and incompleteness are bad from the point of view of individual participation in elections (and incompleteness is worse), the two sorts of error can be self-cancelling on an aggregate level, particularly in places with high population turnover. From the point of view of drawing boundaries, it does not matter if, say, the person who used to live in Flat 5A of Victoria Mansions last year is on the register but the current resident is not. One of the risks of IER in high-turnover areas is that the total electorate may lose the inaccurate names who have moved out, but not pick up the names of those moving in.

This section explores what effect this might have on the boundaries coming into force in 2020, and Part 4 outlines an alternative which would provide a more stable and fair method for producing the base numbers for drawing constituencies.

The following table is the allocation of seats to the nations of the UK and the regions within England, using the procedures of the 2011 Act for awarding seats but using different sets of base numbers in each case. The number of seats has been equalised to 650 under each method to make comparison with the current situation easier.

	A	B	C	D	E	F
	Current	Sixth Re- view if re-based to 650 seats	2013 Green Register	2013 Model register	Total pop- ulation	VAP model (14+)
Base date	2000	2010	2013	2013	2011	2011
Count ba- sis	Parl'y electors	Parl'y electors	Adjust- ed elec- torate	Adjust- ed elec- torate	All popu- lation	Adjust- ed popula- tion
UK seats	650	650	650	650	650	650
Eastern England	58	61	63	62	60	60
East Mid- lands	46	48	49	48	47	47
London	73	74	67	71	84	75
North East	29	28	29	28	27	28
North West	75	74	75	74	72	74
South East*	83	88	87	88	87	87
South West	55	57	57	57	54	56
West Mid- lands	59	58	61	60	57	58
Yorks/ Humber	54	54	55	55	54	55
<i>England main</i>	<i>532</i>	<i>542</i>	<i>543</i>	<i>543</i>	<i>542</i>	<i>540</i>
<i>Isle of Wight</i>	<i>1</i>	<i>2</i>	<i>2</i>	<i>2</i>	<i>2</i>	<i>2</i>
England	533	544	545	546	544	542
Wales	40	32	32	32	31	33
<i>Scotland main</i>	<i>57</i>	<i>55</i>	<i>53</i>	<i>54</i>	<i>54</i>	<i>55</i>
<i>Islands</i>	<i>2</i>	<i>2</i>	<i>2</i>	<i>2</i>	<i>2</i>	<i>2</i>
Scotland	59	57	55	56	56	57
N Ireland	18	17	18	17	19	18

Column C: Includes only electors matched as 'Green' in 2013 IER confirmation dry run. These are then adjusted to remove those electors who are on the local government but not parliamentary electoral register. One can calculate the proportion of the electorate in each region (and county) who are LG-only electors from the December 2012 registers. This proportion is then applied to the electoral register figures published as a result of the confirmation dry run in 2013, but at a deflated rate because EU electors are currently under-registered (56 per cent rather than around 82 per cent of parliamentary electors).

Column D: This assumes that more than the Green electors end up on the IER register. The assumptions are arbitrary but reasonably plausible: that 70 per cent of 'Amber' electors and 35 per cent of 'Red' electors are added to 100 per cent of the Greens. The same adjustment process to estimate the parliamentary electorate as used in Column C is then applied.

Column 'F' is a census-based measure that approximates the effect of a full register and a reduction in the age at which people are put on the electoral register. The compilation of this measure, and its possible uses, are discussed further in Part 4.

Implications: Regions

Wales is reduced from its current allocation of 40 seats in all cases – while there is a case for giving Wales a bit of latitude and a couple of special seats on geographical and minority-protection grounds, Wales is still going to have its representation cut in any new method of drawing boundaries.

London has the biggest variation because of its incomplete existing registers, the problems created by moving to IER, and its disproportionate share of population ineligible by nationality. A maximally purged IER register would give it 67 seats out of 650, while using total population would give it 84 seats. Using 2010 registered electorate or 2011 ideal electorate makes comparatively little difference (74 or 75 seats), while even allowing for more voters joining the IER register London is under-represented (71 seats). It can confidently be said that IER will lead to London getting less than its fair share of parliamentary representation.

The differences in outcome for most regions are fairly minor if one takes out the two extreme cases of using the most restrictive application of IER and using total population without regard to age or nationality. But comparing the 2010 parliamentary registered electorate and 2013 model IER electorate indicates that even if Amber and Red electors are registered in reasonable quantities IER may well skew representation. Four seats move between the regions: London loses 3 and Scotland loses 1, and the gains are distributed between Eastern (+1), West Midlands (+2) and Yorkshire & The Humber (+1). In the local detail, urban areas would lose out.

Local Implications: London's Representation Under IER

	Register Dec 2010	Eligible population Mar 2011	IER Green register	Model IER register	Model IER register ef- fect (com- pare 2010 register)
	A	B	C	D	E
Barking & Dagenham	1.63	1.66	1.69	1.69	+0.06
Barnet	3.14	3.18	2.97	3.07	-0.07
Bexley	2.40	2.38	2.50	2.44	+0.04
Brent	2.58	2.70	2.39	2.57	-0.01
Bromley	3.26	3.17	3.30	3.23	-0.03
Camden	1.94	1.98	1.28	1.63	-0.31
City of London	0.08	0.07	0.06	0.07	-0.01
Croydon	3.45	3.52	3.36	3.41	-0.04
Ealing	2.95	2.95	2.74	2.89	-0.06
Enfield	2.77	2.91	2.83	2.83	+0.06
Greenwich	2.26	2.34	2.22	2.26	0.0
Hackney	2.10	2.22	1.74	1.97	-0.13

Hammersmith & Fulham	1.55	1.63	1.09	1.33	-0.22
Haringey	2.12	2.19	1.69	1.95	-0.17
Harrow	2.34	2.27	2.33	2.35	+0.01
Havering	2.55	2.50	2.67	2.59	+0.04
Hillingdon	2.69	2.64	2.66	2.68	-0.01
Hounslow	2.32	2.32	2.21	2.29	-0.03
Islington	1.93	1.96	1.51	1.76	-0.17
Kensington and Chelsea	1.22	1.24	0.79	1.06	-0.16
Kingston upon Thames	1.52	1.52	1.47	1.49	-0.03
Lambeth	2.71	2.74	2.08	2.44	-0.27
Lewisham	2.43	2.56	2.24	2.39	-0.04
Merton	1.88	1.84	1.79	1.84	-0.04
Newham	2.52	2.67	2.19	2.39	-0.13
Redbridge	2.73	2.67	2.56	2.62	-0.11
Richmond upon Thames	1.82	1.79	1.75	1.78	-0.04
Southwark	2.56	2.64	2.10	2.33	-0.23
Sutton	1.89	1.90	2.00	1.96	+0.07
Tower Hamlets	2.19	2.32	1.77	1.95	-0.24
Waltham Forest	2.24	2.29	2.18	2.29	+0.05
Wandsworth	2.94	2.89	2.26	2.59	-0.35
Westminster	1.77	1.80	1.09	1.43	-0.34
LONDON	74.49	75.49	67.30	71.55	-2.94
Inner boroughs	28.06	28.91	21.88	25.27	-2.79
Outer boroughs	46.43	46.58	45.42	46.28	-0.15

The ‘Green register’ comprises those electors who were satisfactorily matched by the confirmation dry run conducted in 2013 using the electoral registers and the database of the Department of Work and Pensions (DWP), which is apparently the best data set available but is still inferior in its coverage to the existing household register.¹² Comparing Columns A and B indicates the distortions caused by the imperfections in electoral register as it was in December 2010; inner boroughs are already systematically losing out because of the difficulties in registering their transient and difficult-to-reach populations.

Clearly the Green register would have a catastrophic effect on representation in the inner and central London boroughs, cutting their representation from 28 seats to 22, or over 20 per cent of inner London MPs, compared to the entitlements under the household register.

The City of Westminster, under the Green count, would qualify (taking a ward or two away) for only one parliamentary seat rather than the current two (with the City). Its MP would have his or her hands full dealing with over 200,000 constituents, not to mention all the businesses and facilities clustered in the constituency.

But, as we have noted, Green-only is an absolute worst case scenario. What if we consider a more realistic guess – even if it is still a guess – of what the IER register might look like when the boundaries are drawn? Given that we are flying blind into uncharted areas, guesswork is necessary. In the table, the ‘Model

12 The Electoral Commission’s study of the confirmation dry run, and the statistics on which these tables are based, can be found via www.electoralcommission.org.uk/our-work/our-research/electoral-registration-research

IER register' comprises all the Green electors plus 70 per cent of the Amber electors and 35 per cent of the Red electors.¹³

Column E is probably best read as being a measure of how much further IER (based on the assumptions in the model) would worsen the distortions that already exist thanks to the incompleteness of the household register. The results are still showing a severe skew against the inner London boroughs of all social compositions; not as bad as just using the Green register, but even assuming a fairly good level of matching of Amber and Red electors only softens rather than removes the systematic bias in using the IER register. To return to the City of Westminster, there would be a constituency comprising two-thirds of the council area with a mostly adult population of over 150,000.

Local Implications: Outside London

While London is the most extreme example of an area that loses out because its population will become even more difficult to register, the effects of IER on the boundaries are apparent in other regions. In the North West, for example, there is a clear pattern, and it confirms the London findings that the more 'metropolitan' and core city an area is, the more it will lose in the changes.

13 Amber electors are those where a partial match was found between the register and the DWP database. In some cases this will stem from different address formats, use of common or formal names, and the like. Red electors were unmatched. The Electoral Commission's research paper makes the demographic drivers of Amber and Red status very clear, and they are mostly the same as those which already lead to under-registration.

Table: Local Authorities (North West) with Significant Losses of Constituencies Under IER

	Entitle- ment with 2011 regis- ter and 650 seats	Green register only, and 650 seats	Model register and 650 seats	Change in entitlement (seats)	Change in entitlement (% of 2011 entitle- ment)
Manchester	4.86	3.97	4.37	-0.49	-10.1
Lancaster	1.54	1.40	1.42	-0.12	-7.9
Rochdale	2.22	2.12	2.10	-0.12	-5.3
Blackpool	1.59	1.48	1.51	-0.08	-4.8
Ribble Valley	0.65	0.60	0.62	-0.03	-4.7
Liverpool	4.47	4.23	4.27	-0.20	-4.4
Trafford	2.34	2.32	2.27	-0.07	-3.0

Manchester is, predictably, hardest-hit, losing half a constituency despite it already being under-registered. Lancaster's losses are particularly heavy because of low levels of student registration (the University ward has only 0.1 per cent Green-listed).

The gains are more evenly distributed than the losses – most suburban and rural authorities (with a few exceptions such as Ribble Valley) gain a small amount, rather than there being many startling additions to any particular authority's representation. The class composition of the gaining authorities is not uniformly middle class; working class areas with stable, aging populations also pick up a little. The driving force is that older owner-occupied residents or social tenants are easier to find and register than younger metropolitan dwellers.

Table: Local Authorities (North West) with Significant Gains of Constituencies Under IER

	Entitle- ment with 2011 regis- ter and 650 seats	Green register only, and 650 seats	Model register and 650 seats	Change in entitlement (seats)	Change in entitlement (% of 2011 entitle- ment)
Halton	1.31	1.43	1.37	+0.06	+4.6
Chorley	1.13	1.21	1.18	+0.05	+4.4
Wigan	3.39	3.68	3.53	+0.14	+4.2
Warrington	2.16	2.32	2.25	+0.08	+3.8
Knowsley	1.57	1.69	1.62	+0.05	+3.4

In each case, the assumption in the model that most Amber electors and a significant minority of Red electors are eventually registered under IER significantly reduces the extent to which seats are redistributed. If the metropolitan authorities fall short of the target in registering the more difficult electors, there could potentially be enormous skews in representation, even outside London.

It is important to remember that this skewing of electoral representation is relative to a notional distribution of seats under the government's new rules from 2011. Any alleged unfairness in the pre-2011 system is irrelevant. The 2011 electoral register was, in any case, a flawed basis for drawing constituencies because of its inaccuracy. What might a fairer way of drawing boundaries look like? It would not only prevent the deterioration in the base numbers under IER but also take account of the incomplete, and uneven, situation that existed before IER. We need a stable, complete number from which to compile parliamentary constituencies. Fortunately, it can be done.

PART 4

How to Draw Fair Constituency Boundaries Despite Individual Electoral Registration

There are two parts to a boundary-drawing system: one is the base number used to determine the allocation of constituencies to each area, and the other consists of the rules by which the constituencies are allocated. While this paper mainly concerns the base number to be used in allocating seats, it also comments later on some other aspects of a reformed boundary system.

The introduction of IER will mean that, at least in 2015 and probably for some time to come, the electoral register will be in no fit state to determine an area's entitlement to parliamentary representation. While household electoral registers are one of the better government databases, their accuracy has deteriorated over the last 25 years and IER has gone too far to be stopped. There is a severe danger of introducing an incomplete and biased, even corrupted, set of data as the basis for allocating constituencies. There is therefore a need for an alternative, and fortunately there is one, in the form of the most accurate and complete population measure possible, the Gold Standard that is the decennial Census.

The Register and the Census

It is important here to restate and extrapolate certain points about electoral registration that were made in previous sections of this paper

- ◆ While the electoral register has been used as the basis of allocating seats in the past, the completeness and accuracy of the register has declined, with two particular periods of sharp decline in the early 1990s and the early 2000s. The worst levels of registration are found among members of specific social groups (particularly young people, private renters, flat dwellers and some ethnic groups), causing a skewing of parliamentary representation against areas with high proportions of these groups.
- ◆ Despite this tendency, successive boundary reviews have placed increasing importance on equality of numbers, culminating in the primacy of electorate numbers in the 2011 Act and the small degree of flexibility that is imposed by the 5 per cent maximum variation rule.
- ◆ Evidence from Northern Ireland shows that IER there has caused a fall in the completeness of the electoral register and instability from year to year, with election-year registration being more complete than off-year. While IER in Great Britain will be organised somewhat differently, at least initially, the confirmation dry run, the limited success of local data matching and the failure of national data mining suggest that the register will deteriorate in a way that exacerbates the existing problems of differential non-registration.
- ◆ In Northern Ireland registration is carried out by a single body, the Electoral Office for Northern Ireland (EONI) but in England and Wales it is conducted by local authorities, and in two-tier areas by the smaller District Councils. Policy

and resource differences at local authority level will end up biasing the completeness of electoral registers and therefore the distribution of parliamentary constituencies.

- ◆ While IER may improve over time, there is a strong possibility that the December 2015 register will be severely incomplete, and there may well be long-term non-compliance through inertia as well as intent. It is worth remembering, as discussed above, that 7 per cent of self-assessment tax returns are not completed by the deadline, despite financial penalties, the obvious importance of getting one's personal finances in order, and the social composition of those completing tax returns (mostly more affluent and older people). A high long-term non-compliance rate with IER can be confidently expected.

Electoral registration in general has become more flexible, with the introduction of rolling registration, long-term absent voting, and latterly the ability to join the register up to 11 days before an election. Given that many people now are used to instant on-line registration for many services, there will be an expectation that this will be possible under IER in future – even on the day of the election itself. If same-day registration is introduced, increases in the electorate such as those noted during the 2010 campaign (during which several constituencies gained thousands of electors) are likely to contribute considerably to the number of people actually entitled to vote on election day. In the period between December 2009 and April 2010, 700,000 extra people registered.¹⁴

14 Electoral Commission *Report on the Administration of the 2010 UK General Election* para 4.17 www.electoralcommission.org.uk/__data/assets/pdf_file/0010/100702/Report-on-the-administration-of-the-2010-UK-general-election.pdf

It should be noted that late registration already imposes a significant burden on electoral administrators, and under the cumbersome arrangements for IER this is likely to add to the pressure. A technology or system failure during an election campaign could be catastrophic.

It is therefore going to be impossible to read from the registered electorate on a given day one year to a general election four and a half years hence, and the inaccuracy is likely to bias the electoral system against urban areas and the social groups who live in inner urban areas. The precautionary principle suggests that the known problems of register incompleteness and the unknown risk of deterioration under IER should lead one to find a more reliable, accurate and stable basis for drawing up boundaries.

Using the Census and Population Numbers to Draw Constituency Boundaries

Population, as enumerated by the Office of National Statistics (ONS) every ten years in the Census, is a more stable and robust measure than electoral registration.

The decennial Census, fortunately now reprieved after a threat to its existence, is the 'gold standard' of aggregate population numbers and is used for a wide variety of contexts for making and implementing policy. An obvious use for the Census, given that the electoral register is so badly flawed, is for basing the allocation of parliamentary representation to nations, regions and localities. Doing so would set up a regular, predictable cycle of boundary reviews based on high-quality data. The logic is accepted, for example, in the United States. There are two possible mechanisms for using the Census to allocate constituencies:

1. Just using total population as measured by the Census

2. Using population statistics to produce a number that represents what the electoral register would be if it were accurate and complete.

The advantage of (1) is that it is simpler; this is the formulation used in the USA for example. But it would represent a significant change on past practice in the UK which has regarded registered electorate as being the crucial number (although subordinate to some extent to administrative boundaries). It would introduce equality of *representation*, rather than ‘votes of equal weight’ which is the ostensible aim of the current system.¹⁵ MPs, after all, provide constituency representative services to all residents regardless of age or entitlement to vote.¹⁶

The advantage of (2) is that it is less of a break with the past and can be regarded as an adaptation to cope with the instability of the electoral register. It is more complex, but less challengeable in principle.

It is important to note that the numbers on which these are based are aggregate blocks, and census data would remain as private as it has always been – there would be no list of names, simply the total number of qualified persons for each ward (and sub-division when wards are particularly large, as in Scotland).

Version (2) is essentially a middle option, in that it is based on an ideal register rather than using a different principle for distributing constituencies. It falls between the highly biased and unfair outcomes that are possible (even probable) under IER, and the radical option of moving to equal representation as implied by using unadjusted population statistics.

15 An aim which is absurd and impossible in a First Past the Post electoral system where turnout varies from place to place.

16 Even if full population based districting is not taken up and an ‘entitled electorate’ model used instead,

From Population to Ideal Register

Some complexity may come in because of the need to approximate the ‘ideal register’ number for each ward, the different criteria involved and to what extent people eligible to vote but not part of the population count should be added back in to the population figure. The following table may help.

TABLE: Population and Register: What Are the Differences?

Register but not population	Population but not parliamentary register	Eligible but neither on register nor in population
People who have moved out or died but not been deleted from the local electoral register (inaccurate registers)	UK residents who should be registered but are not (incomplete registers), but completed the Census	UK residents who avoided or evaded both registration and Census
Second home owners (at second home address)	All aged under 16	UK citizens abroad for under 15 years who have not registered
Students at vacation address	Foreign (non-Commonwealth, non-EU) citizens ordinarily resident	Unregistered UK Forces eligible but resident abroad
UK electors resident overseas and registered	Any differences arising from ‘usual resident’ status and Commonwealth voting rights ¹⁷	
Many UK Forces electors	Citizens of the non-Commonwealth non-Ireland EU states (EU24), many of whom will appear on the local government register.	

¹⁷ In theory, the Census ‘usual resident’ test and the criteria for getting on to the electoral register should be similar enough to mean that one can assume all usual resident Commonwealth citizens qualify for the vote, although there may be complexities here that are not immediately apparent.

In adapting population statistics to estimate ideal registered electorate, the exclusion of those not valid by reason of **age** is relatively easy as the Census has precise data on this point.

Information on passports held is also collected. It is possible using published ONS statistics to get most of the way to taking out residents whose **citizenship** does not confer, or confers only partial, voting rights. There are a few published categories of passport holder which combine different degrees of eligibility (e.g. 'Other Accession States' includes Cyprus and Malta whose citizens have full voting rights, and several other countries whose citizens are not eligible to vote in General Elections). The discrepancies are small.¹⁸

In modelling, the assumption has been made (to avoid deducting young foreign nationals twice) that the age profile is the same regardless of citizenship, although it is likely that the non-Commonwealth non-EU population are mostly of working age). In practice, the ONS may be able to advise on a more accurate breakdown by nationality and by nationality combined with age for local authorities and other units, and have published a table by constituency based on 18+ residents with a fully accurate nationality criterion.¹⁹

18 The ONS has compiled a table of eligible population (fully accounting for all nationalities eligible for the parliamentary vote) by constituency, but it includes those aged 18+ and therefore neither attainers on the current register, nor future voters and attainers who would be added to the electorate total if the voting age were lowered. The ONS finding is that the proportion of the 18+ population eligible is 95.1 per cent in England and 86.5 per cent in London while the model suggests 95.3 per cent in England and 87.4 per cent in London, which given the use of a different population base (14+) indicates that the model is probably a good fit and that any inaccuracy from the method of deriving eligible proportions is small.

19 It can be found at data.parliament.uk/DepositedPapers/Files/DEP2014-0531/Copy_of_CT0240_-_PQ193803.xlsx

A population figure such as this will be larger than the total number of registered electors. The main reason is that it will include the millions of people (around 6 million according to Electoral Commission research)²⁰ missing from the electoral register. The electoral register total is around 93 per cent of citizenship and age-adjusted population total.

This seems to imply a smaller gap than the Commission has estimated, around 3.5 million. However, the difference is simply that of gross and net. There are categories of people who are on the electoral register but do not show up in population statistics, as listed above. It is an advantage of the population basis that it eliminates most of the problems arising from inaccurate registers as well as incomplete ones (i.e. it takes out people who have moved away or are dead, double or fraudulently registered, as well as adding back in those who should be on the register but aren't).

Although there are legitimate arguments both ways about other people who are registered but not 'population': students, expats, second home owners and many in the armed forces, the citizenship and age adjustment is probably adequate for nearly all situations.

However, there are some localities where there will be significant numbers of people whose registration and population status is ambivalent, particularly students living away from home and second home owners. Arguably, people should only count once from the point of view of enumerating the electorate, even if it is reasonable to have their name on the register in more than one place. Not counting second homes may be an easy decision, but

20 Electoral Commission *Great Britain's Electoral Registers* December 2011
www.electoralcommission.org.uk/__data/assets/pdf_file/0007/145366/Great-Britains-electoral-registers-2011.pdf

there is a risk that differing term times (and even different dates for Easter in Census years) may lead to inconsistent treatment of students and further thought is necessary.

The proportion of UK expatriates entitled to vote who are in fact on the register is very low (23,366 actually registered in December 2011 out of a total of perhaps 3 million eligible).²¹ While one can ignore an average discrepancy of 36 electors per constituency at current levels of participation, if overseas electors were more thoroughly registered the number would have to be taken into account in drawing constituencies, either by making sure the population figure is adjusted accordingly or following the Italian and French model of establishing diaspora seats for Britons abroad.²²

It may be that a fairly 'pure' population figure could be used – perhaps just adjusting for age and nationality (without attempting to put students, second home owners, expatriates and so on back into the total), and the Boundary Commissions given discretion to take such variations into account when they conduct local reviews and public consultations, and where there is sufficient evidence to justify it perhaps tolerate wider variations in electorate size in such areas.

The Impact of Using a Population Base

Comparing the 2010 parliamentary registered electorate and 2011 model qualified population, the differences in seats between

21 Hansard Society *Making Votes Count: Enhancing engagement in the electoral process by British expatriates* (March 2014 www.hansardsociety.org.uk/wp-content/uploads/2014/03/Overseas-Voters-Report.pdf)

22 There are separate issues about the extent to which long term expatriates *should* have the same weight in the electoral process as normal UK residents, and there is an argument for reciprocal full voting rights within the EU after a long residence term (5 years?).

regions/nations are small. Four seats out of 650 are reallocated: London, Yorkshire & Humber, Wales and Northern Ireland gain one seat each, while Eastern, East Midlands, South East and South West all lose a seat. The reallocation at local level is more significant, with urban areas tending to gain. But the data shows that using the population census and adjusting for age and nationality would not mean radical alterations from the accustomed ways of distributing seats.

Comparing the current register and the qualified population model, the shire counties lose 3.32 constituencies, the metropolitan boroughs gain 1.54 constituencies and the unitary authorities gain 1.38 constituencies, reflecting differential under-registration in the urban areas. Liverpool and Bradford gain nearly half a constituency each. The City of London is small and anomalous, but the other losers tend to be shire and suburban areas; these may be areas where electoral registers are currently unusually complete.

Voting Age

It may be of significance to note that should the voting age be lowered to 16, registration arrangements will need to change. 16–17 year olds are currently able to register as attainers, and are counted towards the electorate. A lower voting age would imply that the minimum age of registration could be lowered to 14, with a further impact on the baseline (the calculations here have assumed no change in voting age). Registering 14–15 year olds under IER should be fairly easily done through schools, although there may be privacy/ child protection implications regarding the use of the data, and either a lowering of the age at which NI numbers are issued or an alternative proof of identity usable below the age of 16.

If it were decided that entitlement to constituencies was in future to be related simply to those entitled to *vote*, and not to the population entitled to *register* (i.e. that the enumeration continues to be all those aged over 16, but with every 16-year old included), it would make relatively little difference to the distribution of constituencies. On a nation/ region level two areas gain a constituency (Scotland and South East) and two lose a constituency (Wales and North West). Using numbers of 16+ entitled population (rather than 14+) there is a small shift in favour of inner London but against some high population growth areas such as Bradford and Kent, but it is tiny.

Explanatory Notes

The registered parliamentary electorate figures are those used by the Boundary Commission in the Sixth Review (i.e. figures compiled in December 2010), although the quota has been adjusted to allow for a House of Commons of 650 MPs rather than the 600 specified in the 2011 Act. There have been no other alterations to the 2011 method (i.e. the status of the Isle of Wight and other special areas are unchanged, as is distribution to the component nations of the UK).

The population figures are from the 2011 Census, adjusted to include only those aged 14 and upwards and to exclude as far as possible people not entitled to a parliamentary vote by reason of nationality. The entitlements are otherwise based on the methodology prescribed by the 2011 Act, but adjusted to produce 650 constituencies across the UK.

The quota for the Sixth Review would have been 70,709 registered electors based on allocating 650 seats overall.

The quota based on adjusted population and 650 seats is 77,605.

The unit of analysis is the primary local authority – London boroughs, Metropolitan boroughs, unitary authorities and shire counties. The counties are the administrative units, i.e. ‘Leicestershire’ does not include the unitary City of Leicester.

The first column in the table is the difference between the locality’s entitlement under registration and population; a positive figure indicates that the locality would gain from the introduction of population based districting.

The second column is the proportionate increase or decrease in a locality’s entitlement under population-based districting; it therefore adjusts for the size of the authority.

**Winners: Primary Authorities Gaining Most
(Proportionately to Size of Registered Electorate in 2011)**

Plymouth	0.13	5.20%
Wolverhampton	0.13	5.24%
Hackney	0.11	5.36%
Tower Hamlets	0.12	5.64%
Newham	0.14	5.66%
Luton	0.11	6.03%
Newcastle upon Tyne	0.17	6.31%
Bradford	0.49	10.46%
Liverpool	0.47	10.60%
Nottingham	0.33	12.05%

Primary Authorities Gaining Most (in Terms of Additional Parliamentary Constituencies to Which They Are Entitled Under Population Base)

Wolverhampton	0.13	5.24%
Plymouth	0.13	5.20%
Newham	0.14	5.66%
Newcastle upon Tyne	0.17	6.31%
Birmingham	0.19	1.83%
Sheffield	0.28	5.17%
Kent	0.29	1.93%
Nottingham	0.33	12.05%
Liverpool	0.47	10.60%
Bradford	0.49	10.46%

Losers: Primary Authorities Losing Most (Proportionately to Size of Registered Electorate in 2011)

City of London	-0.01	-13.41%
East Riding of Yorkshire	-0.23	-6.23%
Bury	-0.11	-5.19%
Wokingham	-0.08	-5.02%
Blackpool	-0.08	-4.80%
St. Helens	-0.08	-3.99%
Isles of Scilly	0.00	-3.94%
Leicestershire	-0.26	-3.59%
Bromley	-0.11	-3.44%
Gloucestershire	-0.22	-3.42%

Primary Authorities Losing Most (in Terms of Constituencies to Which They Are Entitled Under Population Base)

Hampshire	-0.36	-2.53%
Lancashire	-0.27	-2.09%
Leicestershire	-0.26	-3.59%
Devon	-0.24	-2.85%
East Riding of Yorkshire	-0.23	-6.23%
Gloucestershire	-0.22	-3.42%
Surrey	-0.21	-1.79%
Derbyshire	-0.18	-2.16%
County Durham	-0.18	-3.12%
Somerset	-0.18	-3.05%

	Register Dec 2010	Eligible population Mar 2011	Population effect
	A	B	C
Barking & Dagenham	1.63	1.66	+0.04
Barnet	3.14	3.18	+0.03
Bexley	2.40	2.38	-0.01
Brent	2.58	2.70	+0.12
Bromley	3.26	3.17	-0.10
Camden	1.94	1.98	+0.04
City of London	0.08	0.07	-0.01
Croydon	3.45	3.52	+0.07
Ealing	2.95	2.95	0.00
Enfield	2.77	2.91	+0.14
Greenwich	2.26	2.34	+0.09

Hackney	2.10	2.22	+0.12
Hammersmith & Fulham	1.55	1.63	+0.08
Haringey	2.12	2.19	+0.07
Harrow	2.34	2.27	-0.07
Havering	2.55	2.50	-0.05
Hillingdon	2.69	2.64	-0.05
Hounslow	2.32	2.32	0.00
Islington	1.93	1.96	+0.03
Kensington and Chelsea	1.22	1.24	+0.02
Kingston upon Thames	1.52	1.52	0.00
Lambeth	2.71	2.74	+0.03
Lewisham	2.43	2.56	+0.13
Merton	1.88	1.84	-0.04
Newham	2.52	2.67	+0.15
Redbridge	2.73	2.67	-0.06
Richmond upon Thames	1.82	1.79	-0.03
Southwark	2.56	2.64	+0.08
Sutton	1.89	1.90	+0.01
Tower Hamlets	2.19	2.32	+0.13
Waltham Forest	2.24	2.29	+0.05
Wandsworth	2.94	2.89	-0.05
Westminster	1.77	1.80	+0.03
LONDON	74.49	75.49	+1.01
Inner boroughs	28.06	28.91	+0.85
Outer boroughs	46.43	46.58	+0.15

Other Reforms to the 2011 Act

There is no point in re-legislating the system that existed before 2011. The abortive review from 2011 to 2013 gave us an

opportunity to do a dry run of the new system, and some aspects of it worked fairly well (the fixed number and the distribution of seats to nations and regions, and the consultation process) and some badly (the gross mismatch of the proposed constituencies to administrative, physical and social geography). The paper does not cover the single biggest source of problems, the over-tight 5 per cent maximum variation in constituency size (Ron Johnston and colleagues have recently reported in detail on how the disruptive effects of the rule might be mitigated, and in 2011 I proposed that a 10 per cent permitted variation would solve most of the problems).²³ But it does address some problems that affect only a few special-case constituencies that would otherwise be treated unfairly, as some were in the 2011 Act.

In general, it is undesirable that the ‘rules of the game’ in terms of boundary distribution should be a matter of partisan controversy. While a thorough inquiry may be desirable in principle, there may be little time available to stop a boundary review based on the incomplete 2015 numbers based on the flawed 2011 rules, and rapid action may be required in 2015. It is hoped that the proposals here, with a looser overall threshold, will establish a stable long-term way of drawing constituency boundaries that will last for decades.

It would be fair to say that when the 2011 Act was tried out in 2011–13 the process was better, and the outcome worse, than many expected.

The consultation phase and the public hearings generally worked as well as they could, and in practice there was no lack of ability

23 R. Johnston, D. Rossiter and C. Pattie *Equality, Community and Continuity: Reviewing the UK Rules for Constituency Redistributions* McDougall Trust, 2014 and L. Baston *The Ten Per Cent Solution* Democratic Audit, 2011. filestore.democraticauditarchive.com/file/6b41ded77e4299e27cbe4c79f5cde4e8-1295435721/ten-per-cent-solution.pdf

to offer comment and alternatives to the proposals, even if the Commissions could not satisfy many of the objections given the restrictive rules they were obliged to follow. As amended on its way through Parliament, the 2011 Act does provide a reasonably responsive and effective mechanism.

However, many of those who had supported the 5 per cent rule in the 2011 Act were surprised and shocked when the boundaries that the Boundary Commission for England in particular came up with were ugly-looking and made little concession to local identity. Baroness Warsi, then Conservative Party Chairman, called the initial proposals ‘mad and insane’.²⁴ Some of the revised recommendations smoothed out a few of the worst cases, but at the cost of introducing some additional anomalies such as splitting wards on an inconsistent basis. Simply, it is impossible to draw boundaries that bear much relation to communities of identity with a limit as strict as 5 per cent, and there will always be some ‘mad and insane’ boundaries under the existing PVSC regime. It would be desirable to learn some of the lessons of the 2011–13 dry run and amend it so that it combines an acceptable level of equality as well as rational and stable outcomes.

Special Cases

Most districting rules, including the 2011 Act, involve some special cases that are excluded from the general mechanism in order to produce sensible geographical arrangements (particularly with islands) or to represent ethnic or linguistic minorities.

There are good arguments for allowing a few more special cases than the four seats (plus rules on large geographical area and a fail-safe clause in case Northern Ireland seats are particularly big or small) in the 2011 Act. It is ironic that the extreme

24 As quoted *Guardian* 3 October 2011.

disparities often mentioned by critics of the existing boundaries – Na h-Eileanan an Iar and the Isle of Wight, the smallest and largest seats – would have been kept in place under the 2011 Act until a last-minute swerve from the government creating two small seats instead of one large one on the Isle of Wight. Concentrating on a handful of special cases in a legislature of over 600 is not a sensible way of assessing the performance of a system of boundary reviews.

The table below shows the strongest candidates for allowing departures from the rules on size of population/ electorate/ ideal electorate.

		Special rules previously applied	Special rules in 2011 Act	Possible future special rule
Isle of Wight	England (SE)	BCE used discretion to award a single oversized seat	Two seats guaranteed, excluded from English allocation	BCE discretion as to 1–2 whole seats within SE allocation
City of London	England (LN)	Not to be divided, and to have a seat named after it	None	Not to be divided
Cornwall	England (SW)	None, but BCE always able to award whole number	None	Whole number of seats within SW allocation
Cumbria	England (NW)	BCE invoked 'special geographic circumstances' to award 6 rather than 5 seats	None	Six seats guaranteed within NW allocation
Wirral	England (NW)	BCE used discretion to award 4 small seats	None	None

Northumberland	England (NE)	BCE allowed small seats because of remote terrain	None	Four seats guaranteed within North East allocation?
Na h-Eileanan an Iar	Scotland	BCS used discretion to award single small seat	Single seat guaranteed, excluded from Scottish allocation	Single seat guaranteed, excluded from Scottish allocation
Orkney & Shetland	Scotland	Single seat guaranteed	Single seat guaranteed, excluded from Scottish allocation	Single seat guaranteed, excluded from Scottish allocation
Highlands	Scotland	BCS tolerated small electorates pre-2005	Maximum land area rule (not invoked by BCS in 2011–13)	Three seats guaranteed, excluded from Scottish allocation
Ynys Mon	Wales	None, but BCW consistently awarded 1 seat – size of seat similar to current Welsh average	None	Single seat guaranteed, excluded from Welsh allocation
Gwynedd	Wales	None, but BCW consistently awarded small seats	None	Perhaps two seats, inside or outside Welsh allocation

The dispensation for Gwynedd is an interesting case, in that the tolerance for small seats accorded to the area by the BCW has been based on the geographical difficulty of this mountainous area, but if anything a stronger argument can be based on minority representation, a concern acknowledged in most electoral and districting systems. Without some tolerance for Gwynedd, there is a risk that there will be unduly few majority Welsh-speaking constituencies.

Given that the total number of seats is constant, the effect of having a handful of small seats is that somewhere else, seats must be larger. There are two alternative ways of allowing for special seats under the 2011 Act.

- ◆ (A) The one used in the case of the Scottish Islands and the Isle of Wight is to exclude the electorate of the special seats from all other calculations, in effect treating them as three small extra component nations of the UK. The 'price' of the special case is therefore spread throughout the rest of the UK through having a slightly larger quota (in the case of the Isle of Wight, legislation did not require that its MPs were not counted with the South East in the distribution of seats to the English regions, but the BCE decided that they should not be).
- ◆ (B) The alternative is to make up the shortfall within the region or nation in which the special case is allowed, as would have been the case had the BCS used the (ill-specified) clause in the 2011 Act allowing small seats in the Highlands if they would otherwise cover too large a geographical area. The average size of the other seats in Scotland would have risen a bit.

One should have a rational basis for deciding which of these methods to use (the assessment in the 2011 Act does not seem entirely rational). The table above suggests that single seats over which there is no Boundary Commission discretion should be treated by method (A) and those in which there is an element of discretion should be treated by method (B). Thus, any anomalies in size caused by giving a whole number allocation to Cornwall would be 'paid for' by the remainder of the South West, and the same for the Isle of Wight in the South East. However, this might lead to problems when the nation or region is small – allowing

small seats in Northumberland could have a significant adverse effect on the rest of the North East region, for instance, and the same problem arises with Gwynedd in Wales.

There may be a case for not using method (B) at all, and treating Gwynedd, Cornwall, Cumbria and Northumberland as the Commission treated the Isle of Wight in the 2011–13 review.

Overpopulated Constituencies

Mention of the arbitrary land area rule (specifying a maximum land area for a constituency, and allowing deviation from the rules on size to prevent breaches of that rule) raises the question of whether there are other criteria which should be taken into account. The rationale for the land area rule was ostensibly the practical difficulties in representing a huge geographical area. But representing a very large population is probably even more problematic for the MP, as those of all parties from inner and central London can testify. It would seem sensible to have a rule similar to the land area rule to prevent constituencies having ridiculously large total populations, with the resulting heavy and disproportionate workload for the MP.

Table: Top 10 Constituencies by Population, 2012

Region	Constituency	Population	Percentage of average constituency size in England
London	West Ham	160,408	159.8
London	East Ham	153,676	153.1
London	Brent Central	140,006	139.5
London	Holborn and St Pancras	138,921	138.4
South East	Isle of Wight	138,748	138.2
London	Croydon North	138,276	137.8
North West	Manchester Central	136,160	135.7
South East	Slough	135,654	135.2
Yorkshire H	Leeds Central	135,348	134.9
London	Ilford South	134,854	134.4
	England average	100,363	

Source ONS: Adapted from data from the Office for National Statistics licensed under Crown Copyright (*Mid-2012 Population Estimates for Parliamentary Constituencies in England and Wales by Single Year of Age and Sex* ONS, November 2013)

Many of these constituencies also have excessively large electorates. A high-population adjustment could involve the award of an extra seat or two to London to accommodate areas where there are clusters of high-population seats. The Boundary Commission for England may be best placed to assess the exact mechanism when it distributes constituencies between the English regions, rather as the Boundary Commission for Scotland decides how to treat the Highlands under the 2011 Act. Of course, if unadjusted population is used as a basis for allocating seats, the question does not arise.

The Timing of Boundary Reviews

The 2011 Act would mean that – provided that Parliaments remain fixed-term – no set of boundaries would be used more than once in a General Election. For many, if not most, MPs the normal state of affairs (three years out of five) would be uncertainty about which area exactly they would be contesting in the next election.

This seems likely to disrupt the relationship between the MP and the constituency.

Moving to population-based districting, provided that a Census or equivalent continues to be taken, would enable regular ten-year reviews of constituencies, so that the normal life span of a set of boundaries would be two General Elections. By international standards this is a fairly frequent cycle, the same as in the United States, and is faster in all respects than the timetable under the pre-2011 procedure (the gap between redistributions being around 14 years).

While ten years is the obvious solution, depending on the scale of population movement it may be possible to introduce a twenty-year cycle, with a local interim review in the middle to address local situations where the size of constituencies had grown or shrunk beyond acceptable levels. This would make for more stable constituency boundaries and probably less expenditure on conducting boundary reviews.

The precise timing is a little complex. The UK Census year is 2011, 2021 etc. while – if the assumptions of the Fixed Term Parliaments Act stick – elections take place on the 2015, 2020, 2025 etc. cycle. Getting from a Census in spring 2021 to usable figures for entitled population by ward to a boundary review to new boundaries usable in the 2025 election is probably an unrealistically rapid timetable (even with the improvements in data processing that could come with technological advance). As a result, there would be a nine-year lag between the 2021 Census and the boundaries based on it going live in 2030. There are other options, such as asking the ONS to produce a definitive and current estimate of entitled population for 2025 in advance of the new boundaries in 2030 (for the same five-year initial lag as the 2011 Act specifies), or it may be that moving the Census year, or reviewing the five-year lifespan of Parliaments can provide the answer.

There are several short term problems affecting the boundaries in 2015–25 before long run stability sets in. The solution may be in this instance to use the electoral register in 2015 as long as household registrants are not ‘purged’ as the base data for a 2016–18 review under a revised version of the 2011 rules. This could be done with one omission and one action by the government of the day after the 2015 election; by refraining from bringing forward the Order to purge the registers in 2015 rather than 2016, and introducing a short amending Bill that would alter the 2011 Act to:

- ◆ Fix the number of constituencies at 650 rather than 600.
- ◆ Widen the permitted variation in constituency size from 5 per cent to perhaps 8 or 10 per cent
- ◆ Specify a larger number of special cases.
- ◆ Terminate the 5-year boundary review cycle, i.e. not requiring the Commissions to start work again in 2020.

Unfortunately, the 2011 Act took away the Commissions' power to conduct interim boundary reviews; otherwise a solution might have been to award a few extra seats where there were clusters of grossly oversized constituencies, as in East London and in Somerset. This has a precedent in a transition period before the permanent Boundary Commissions, when extra seats were created in 1945. Restoring interim reviews in selected areas could be a useful way of keeping constituency size inequality within acceptable bounds without widespread disruptive change, and also in keeping ward and constituency boundaries as harmonised as possible.

Leaving the current map, based on the registered electorate in 2000, in place in 2020 should be considered only as a last resort.

Conclusion: A Threat and An Opportunity

Of course, IER may end up producing a better register than the one that has been modelled here, even though the recovery rate assumed is fairly similar to the rate at which councils have been able to use local data mining and matching to verify Red and Amber electors (7 per cent of electors being standard, which given that 17.7 per cent are Red and 2.5 per cent Amber nationally matches pretty closely to the model figures overall).

The patterns found in London are likely to be reflected in the balance between urban and rural/ suburban areas in other regions, although perhaps in a less extreme fashion. The City of Manchester noted that:

As the dry run results have shown, on average over 30% of Manchester's electors will not be confirmed. Despite the activity to assure their registration, this could ultimately result in a reduction of 50,000 on current registration rates. In addition, due to the large percentage of private rented homes and high mobility levels, a further 80,000 individuals could move each year and will therefore need to individually (re)register. The Cabinet Office will provide Manchester City Council guidance on how we can gather the intelligence to track and identify individuals, suggesting potential sources.²⁵

25 Manchester City Council, Report of Chief Executive on *Implementation of Individual Electoral Registration*, Agenda Item 5 for Executive 18 December 2013 www.manchester.gov.uk/download/meetings/id/16165/item_5-implementation_of_individual_electoral_registration

It is apparent that there are a lot of very rough edges to IER. At best, it is a work in progress. If the system is, as of December 2013, at this stage – the Cabinet Office not even advising how it can be done, but promising ‘suggestions’ of ‘potential sources’ – it seems unlikely that the IER register will be in any fit state by December 2015 to be a reliable count of those who are entitled to vote in that area. The eventual suggestions may end up being as useless as the national data mining project, about which the Electoral Commission concluded in 2013:

The evidence from this pilot suggests that data mining, as it was tested, is not a practical way of identifying unregistered electors.²⁶

It may take many years to devise effective approaches to IER that mean that electoral registration levels are geographically and socially representative, and it might not even be a feasible exercise.

Drawing boundaries based on the register as it exists in 2015 – before any evaluations have been done and while the methodology for registering the harder-to-reach electors is still at best under development – would result in severe distortions in the constituency map of the United Kingdom.

Given the well-established pattern of existing under-registration, and the near certainty that an IER-only December 2015 register will be severely incomplete, the risks to one of the foundations of parliamentary elections are considerable. While it was probably hyperbole to describe the 2011 Act as gerrymandering, that description would be thoroughly justified if a government wilfully used the combination of incomplete, biased registers and the 2011 Act to take seats away from urban areas.

26 Electoral Commission *Data Mining Pilot – Evaluation Report*, July 2013 www.electoralcommission.org.uk/__data/assets/pdf_file/0016/162106/Data-mining-pilot-evaluation-report.pdf page 3.

Fortunately there is an alternative. It requires a fairly short Bill to be introduced in the first session of the Parliament elected in 2015, amending the 2011 Act to remove some of the features that made the dry run of 2011–13 so problematic, and the non-implementation of an order to remove household registrants between May and December 2015. Given the timetable, parties (particularly Labour, and possibly the Liberal Democrats) intending to reform the 2011 Act and IER should be clear about their intention in their manifestos and in any coalition agreement. Future ministers might also consider other ‘sticking plaster’ options such as interim reviews to update the boundaries for 2020.

There is a better, more stable measure of entitled population available in the long term, namely the Census. Moving to a census-based system might be possible without a second piece of primary legislation provided that the short 2015 bill allows this move to be made with secondary legislation. It is possible to retain some of the modernising features of the 2011 Act while moderating its disruptive effects, and the modest proposals made here to do so are commended to governments present and future.

Electoral Collision Course?

The Boundaries and the Register After May 2015

Lewis Baston

A common complaint about the constitutional reform programme pursued by the Labour governments of 1997–2010 was that it was disjointed. The same problem has recurred under the Coalition since 2010, even in those bits of ‘the biggest shake up of our democracy since the Great Reform Act of 1832’ (Nick Clegg, 2010) that have been seen through to completion.

Two of these changes have created a particularly malign combination. These are the changes that were introduced in 2011 to the way parliamentary constituency boundaries are drawn, which were paused rather than cancelled in 2013, and the radical changes to the basis of electoral registration.

After May 2015 the two measures will collide horribly. The current government intends (subject to Parliamentary approval) to purge the electoral registers in late 2015. Even if (and this is doubtful) Individual Electoral Registration produces a more complete and accurate register in due course, the post-transitional register in December 2015 is likely to be severely incomplete. The paused 2011 Act changing constituency boundaries, though, insists that a boundary review begins exactly then, and that constituencies will be strictly based on registered electors. The result could be a fiasco that would also be extremely vulnerable to the charge of being a gerrymander.

This paper suggests methods for a government to avert the dangers that are looming in 2015–20, and also offers a more permanent and reliable method of determining how to draw the boundaries.

This pamphlet presents the personal views of the author and not those of The Constitution Society, which publishes it as a contribution to debate on this important subject.

THE CONSTITUTION SOCIETY



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