

Report of Assistant Commissioner

Garrett E. O' Reilly

on the Provisional Recommendations of The Local
Government Boundaries Commissioner for Northern Ireland
for the proposed Local Government District of Newry City
and Down

December 2008

1. **INTRODUCTION**
 - Background
 - Written representations
 - Public hearing
 - Content of report
2. **LEGISLATIVE FRAMEWORK**
3. **DISTRICT REPRESENTATIONS**
 - (1) The Name of the District
 - (2) The Boundaries of the District
4. **WARD REPRESENTATIONS**
 - (1) The Number of Wards within the District
 - (2) The Names of the Wards within the District
 - (3) The Boundaries of the Wards within the District
5. **ADDITIONAL REPRESENTATIONS**
6. **SUMMARY OF RECOMMENDATIONS**
7. **CONCLUSION**

APPENDIX

REPRESENTATIONS

1. INTRODUCTION

Background:-

- 1.1 The start of the current review of local government boundaries in Northern Ireland was announced in a Public Notice on the 28th July 2008, which explained the role and remit of the Local Government Boundaries Commissioner ("the LGBC") and advised that in due course the LGBC would publish Provisional Recommendations and cause a public hearing to be held in each of the eleven proposed new local government districts. The Notice also explained the process of public consultation on the Provisional Recommendations whereby interested parties would have the opportunity to comment on and contribute to the review.
- 1.2 The terms of the review are set out in the Local Government Act (Northern Ireland) 1972, as amended by the Local Government (Boundaries) (Northern Ireland) Order 2006 and the Local Government (Boundaries) (Northern Ireland) Act 2008. A copy of the Order is available on www.lgbc-ni.org/index/legislation.htm or from Her Majesty's Stationery Office.
- 1.3 The Provisional Recommendations for the boundaries and names of the eleven new local government districts and in respect of the number, boundaries and names of their constituent wards were formally announced on the 17th September 2008 and simultaneously published on the office website, http://www.lgbc-ni.org/index/provisional_recommendations.htm. A Public Notice of the Provisional Recommendations, together with details of the programme of public hearings, was published on 18th September 2008 in a number of daily and provincial newspapers. Copies of the Provisional Recommendations, including detailed maps, were made available for public inspection at all district council headquarter offices, the Electoral Office and Area Electoral Offices, all public libraries and at the office of the Electoral Commission in Northern Ireland and that of the LGBC on 18th September 2008.
- 1.4 The Public Notice of 18th September 2008 invited written representations in respect of the Provisional Recommendations within an eight-week public consultation period. The closing date for written representations was 12th November 2008.
- 1.5 The Commissioner received written representations from a range of interested parties including political parties and political representatives, district councils, community organisations and individual members of the public. All representations were acknowledged giving details of the public hearings and have been published on the LGBC's office website, and were made available for viewing at each of the public hearing venues.

- 1.6 On 5th November 2008, I was appointed as an Assistant Commissioner by the Minister of the Environment, Sammy Wilson. My task is to assess and report on the representations and to conduct a Public Hearing on the Commissioner's Provisional Recommendations in relation to the proposed local government district of Newry City and Down District Council ("the New District") and to submit a report to the Commissioner, to include conclusions and recommendations, within four weeks from the end of the Public Hearing.

Written Representations:-

- 1.7 Written representations of relevance to the New District and to the Provisional Recommendations are listed herein. All representations were considered by me in advance of the public hearing, and in anticipation of preparation of this Report.

Public Hearing:-

- 1.8 The Public Hearing into the Provisional Recommendations for the New District was held in The Slieve Donard Hotel, Newcastle, County Down on the 20th and 21st November 2008. A number of people attended the Hearing and oral submissions were made. The Hearing was conducted in an informal manner and all attendees were afforded the opportunity to give their views and to question and discuss the viewpoints of others. All aspects of the Provisional Recommendations relating to the New District were discussed to ensure full consideration and examination of the LGBC's Provisional Recommendations. Details of those who made oral submissions are specified in the Report and a copy of the transcript of the hearing is attached and can also be viewed on the office website www.lgbc-ni.org.

Content of Report:-

- 1.9 This Report presents and addresses the written and oral views of interested parties on the Provisional Recommendations for the New District. In particular, it addresses relevant local information and opinion on the Name and Boundary of the New District; the names, number and boundaries of the Wards into which the New District has been divided; and details support of, objections to, or counter proposals in relation to the Provisional Recommendations. It also presents my recommendations and conclusions on the representations, views and opinions based on the legislative framework for the review.

2. LEGISLATIVE FRAMEWORK

The relevant legislation dealing with the Local Government Districts and Wards is contained in The Local Government (Boundaries) (Northern Ireland) Act 2008 ("the 2008 Act") and the rules governing the recommendations of the LGBC are specified in Schedule I to the Local Government (Boundaries) Northern Ireland Order 2006 ("the 2006 Order").

3.(1) THE NAME OF THE DISTRICT

The Law:-

The LGBC is not given any statutory direction or guidance in choosing a name for a District.

The Provisional Recommendation of the Local Government Boundaries Commissioner:-

The names of the two existing District Councils which comprise the bulk of the lands to be situated within the New District are Newry and Mourne District Council and Down District Council. The rationale of the LGBC for his choice of name for a district with a City within its boundaries is set out in his Provisional Recommendations Report. It is to recognise the City status and also to recognise the areas outside the City limits in the District Council name. The name recommended by the LGBC for the New District is Newry City and Down District Council.

Written representations as to the name for the New District were received from:-

- The Democratic Unionist Party;
- P.J. Bradley MLA;
- Derrylecka SDLP;
- The Green Party;
- McShane and Company (for Newry and Mourne District Council and Down District Council);
- SDLP Down/Newry and Mourne;
- P.J. Toal;
- Maria Caraher; and
- Ciara Pickering.

Oral representations to support these written representations were made by:-

- Peter King of the Democrat Unionist Party; and
- P.J. Bradley MLA.

The representations and submissions of Peter King of the Democratic Unionist Party and P.J. Bradley indicated that it was appropriate to include a reference to the Mournes in the name of the New District and generally made the case that the name should make such reference not only because 'Mourne' is part of name of the existing District Council but also because the Mournes are the most illustrious part of the New District. When the power of a District to change its name at any time (including any newly designated name) was discussed it was suggested by both Peter King and P.J. Bradley that the name recommended by the LGBC was simply not going to be an acceptable name and it was much better to have a name with 'Mourne' or 'the Mournes' in it which has a reasonable prospect of being generally

acceptable in the hope that the new Council would not become embroiled in a name dispute.

In a part of a written representation the SDLP Down/Newry and Mourne recommended that the naming of the New District be reserved for that new Council as the only democratic process to follow.

Letters were received from P.J. Toal, Maria Caraher and Ciara Pickering suggesting as a result of a revival of interest in the Irish language and Irish speaking that the name of the New District should be bi-lingual or in the Irish Language.

In correspondence McShane and Company (on behalf of Newry and Mourne District and Down District Council) expressed concern that the recommended name of the LGBC for the New District failed to take into account the Mourne area and also the South Armagh region.

In an oral submission Councillor Hearty expressed the view that as a part of South Armagh formed part of the New District then the word Armagh should be included as part of the name of the New District.

GENERAL COMMENTS

- A District Council has the power to change its name to any different name, be it to a bi-lingual name or to an Irish language version or otherwise;
- There is a virtual consensus that "Mourne" or "the Mournes" should be part of the name of the New District and the failure to do so will probably cause dispute; and
- Inspection of the names and the name policy recommended for the other districts by the LGBC in his Provisional Recommendations Report tends to indicate it might reasonably be suggested that it is more in accordance with his logical and sensible name policy to use the combination of the names of the two existing District Councils with the inclusion of the word City to recognise the city status of the City of Newry.

RECOMMENDATION

It is recommended that the name for the New District is **Newry City, Mourne and Down District Council**.

3.(2) THE BOUNDARIES OF THE DISTRICT

The Law:-

The statutory directions given to the LGBC in choosing the boundaries for a District Council are covered by the 2008 Act and Schedule 1 to the 2006 Order;

Section 1 of the 2008 Act specifies that a Local Government District should incorporate the whole or a major part of the existing local government districts;

Rule 14 of the 2006 Order specifies that the LGBC shall have regard to the desirability of determining district boundaries which are readily identifiable;

Rule 15 of the 2006 Order specifies that a Townland shall not, except where in the opinion of the LGBC it is unavoidable, be included partly in one district and partly in another;

Rule 16 of the 2006 Order states that as far as practicable (a) a district shall not be wholly or substantially severed by the boundary of another district; and (b) a district shall not be wholly or substantially encompassed by the boundary of another district.

The Provisional Recommendation of the Local Government Boundaries Commissioner:-

The LGBC has provisionally recommended that the Boundary of the New District should follow the existing Local Government boundaries of the Newry and Mourne District Council and Down District Council together with the inclusion of the area designated as an Area of Outstanding Natural Beauty (AONB) not presently within the Newry and Mourne District Council and Down District Council boundaries. This provisional recommendation is in accordance with the statutory framework as to the "whole or a major part" of the existing Districts being incorporated in any of the new districts.

The rationale of the LGBC for this district boundary change to include the area of the AONB over and above the two existing District Councils' boundaries is that he takes the view that the development control in, and management of, the AONB would be enhanced by being vested in one District.

Written representations as to the boundaries of the New District were received from:-

- Democratic Unionist Party
- Ulster Unionist Party

- Danny Kennedy MLA
- Graham Truesdale
- Banbridge District Council
- Paul Hoben
- Robert Gardiner
- Margaret Hoben
- Councillor Michael Carr
- Martin McAlinden

Oral Representations were made at the Public Hearing by:-

- Danny Kennedy MLA
- Peter King
- John McCallister MLA
- Councillor Michael Coogan
- P.J. Bradley MLA
- Councillor Michael Carr

Evidence:-

The written representation of the Democratic Unionist Party opposed the inclusion of the ward of Ballyward in the New District. In a supplemental oral submission on its behalf Peter King explained that his party did not accept the policy of the LGBC in relation to all the AONB being under the control of a single District. By way of example to support his submission Mr. King said that the Lake District in England was controlled by several Councils.

Comment:-

After investigation it can be confirmed that Mr. King's submission as to the Lake District is correct. However the Lake District comprises an area of in or about 2,292 square kilometres, which is greater than the area not only of the New District but also the areas of 10 of the 11 proposed Districts (only Fermanagh and Omagh being greater). The area comprised in the AONB is 570 square kilometres. It is suggested that it is therefore not surprising that the Lake District area falls within several Council areas. Further it is understood there is a Lake District National Park Authority which is an independent local authority covering the whole area and which acts as a Unitary Planning Authority.

Evidence:-

The written representation of the Ulster Unionist Party, inter alia, related to an amendment of the proposed New District Boundary by the removal of the Newtownhamilton Ward from the New District to the proposed Armagh and Bann district. In his oral submission Councillor Danny Kennedy supported

this written proposal on the grounds that the population of Newtownhamilton Ward looked more to and identified with Armagh and not Newry as regards its social, sporting and educational links, its retail needs and generally so that Newtownhamilton should come within the proposed district of Armagh and Bann. Councillor Kennedy indicated that he anticipated representations being made to transfer the Rathfriland Ward from its proposed district of Armagh and Bann to the New District. In practice I understood that he envisaged the wards of Newtownhamilton and Rathfriland would be exchanged.

Comment:-

An initial inspection of maps of the area indicates that there may be some logic to Councillor Kennedy's proposal to exchange the ward of Newtownhamilton with the ward of Rathfriland but on further inspection it is respectfully suggested that such an exchange would only work if other wards (such as Crossmaglen and probably Mullaghbane) were also transferred to Armagh City and Bann District Council and this would leave Newry with 39 wards even with the transfer of the Rathfriland ward. In any event apart from a casual reference from Councillor Carr in his written representations no other submissions to support the proposal in this regard as envisaged by Councillor Kennedy were made to me.

In relation to the identity connection between Newtownhamilton and Armagh City made by Councillor Kennedy it does not seem to me that the statutory rules provide for the matter of identity with another area to be a basis for deciding District Boundaries. In any event there was no further support for Councillor Kennedy's proposal. The use of the existing district boundaries by the LGBC is in general accord with his statutory remit so it is considered that the ward of Newtownhamilton should remain within the New District Boundary.

Evidence:-

The written representation of Banbridge District Council opposes the removal of the ward of Ballyward and its transfer to the New District on the grounds that Banbridge District Council has invested in the Ballyward Community and its infrastructure. Further some activities in Ballyward are associated with Banbridge District Council. The Council states that it understands the policy of the LGBC but it requests that the existing Ballyward Boundary is retained, the effect of which would be that Ballyward would come within the proposed new district of Armagh and Bann.

Comment:-

No supplemental oral evidence was given by or on behalf of Banbridge District Council. The written request of Banbridge District Council does not make any attempt to argue that the LGBC policy is not fair and reasonable or in accordance with his statutory guidelines.

Evidence:-

In a plan attached to his written representation Councillor Michael Carr suggests that the ward of Rathfriland could be included within the new District.

Comment:-

In his supplemental oral submission Councillor Carr made no further reference to this written suggestion. The inclusion of the ward of Rathfriland would be outside the boundaries of the existing Newry and Mourne and Down District Councils and would not be in conformity with the statutory guidelines.

Evidence:-

Margaret Hoben supported her written submission in relation to the undesirability of the boundaries of the New District on the basis of the resultant financial implications for the population of the New District and she objected to the 2008 legislation on the grounds of inequality of representation.

Comment:-

The financial implications of the 2008 Act and the 2006 Order on the population of the New District or the legitimacy of the 2008 Legislation form no part of the statutory remit of the LGBC and the only part of Mrs. Hoben's written or oral submission of any relevance related not to the New District boundaries but to the number of wards in the New District. I consider I gave Mrs Hoben more than enough time to make a submission that was in any way relevant to the statutory framework in relation to the New District boundary but she did not do so.

Evidence:-

The written submission, inter alia, of Robert Gardiner was concerned that the New District should not include any part of South Armagh.

Comment:-

The LGBC has followed the statutory guidelines in this regard by using the existing boundaries of Newry and Mourne District Council and Down District Council.

Evidence:-

Councillor Michael Coogan was concerned to express support for the proposed boundaries of the New District and to record that he could not envisage any reason for any revision to them.

In an oral submission supplementing an Addendum to the Ulster Unionist Party written representation John McCallister expressed his general agreement with the policy of the LGBC that the AONB should fall within one district. However he said that the LGBC was proposing to transfer more land than necessary to the New District to comply with his policy. Mr. Graham Truesdale referred to maps showing the Western Boundary of the New District which indicated that there were areas outside the AONB but within the New District. On this basis Mr. McCallister asked that the boundary for the New District be redrawn to correct this situation by excluding the Townlands of Drumlee and Annahunshigo from the New District.

Comment:-

The submission to exclude the Townlands of Drumlee and Annahunshigo from the New District does not seem to be in conflict with either the stated policy of the LGBC or the statutory regulations in relation to a district having identifiable boundaries or the statutory regulations in relation to a Townland not being in more than one district.

Evidence:-

During the inspection of the various maps and unrelated to Mr. McCallister's submission it became clear and it was acknowledged by all that a very small triangular part of land within the AONB (on its north western boundary) had not been included in the area being transferred to the New District.

Comment:-

The failure to transfer this small piece of land within the AONB to the New District would seem to be in contravention of the policy of the LGBC.

Evidence:-

Paul Hoben's oral submission related to all the district boundaries generally producing an imbalance of populations in districts and being undemocratic.

Comment:-

I do not consider that any part of Mr. Hoben's extensive written or his oral submission are matters properly to be considered under the legislative framework.

Evidence:-

The written submission of Martin McAlinden states that the part of South Armagh should be included in the County of Armagh as it is not a good geographical fit into the New District.

Comment:-

This part of the boundary of the New District follows the existing boundaries of Newry and Mourne District Council and Down District Council and accordingly is in accordance with section 1 of the 2008 Act.

GENERAL COMMENTS

Having carefully considered all the representations I am satisfied firstly that the LGBC has incorporated the boundaries of the existing Newry and Mourne District Council and Down District Council into the boundaries of the New District in accordance with the general direction given in Section 1 of the 2008 Act and secondly that he has acted generally in accordance with Paragraphs 14 to 16 of Part 111 of the Schedule to the 2006 Order. The policy of the LGBC in including AONB in the New District seems logical and sensible.

RECOMMENDATION

It is recommended that the Boundaries of the New District remain as provisionally recommended by the LGBC except that:-

- the LGBC exclude the two Townlands of Drumlee and Annahunshigo from the New District. Such a boundary amendment does not seem to be in contravention of either his policy or the statutory guidelines as to the revised boundaries will be readily identifiable; and further
- the LGBC include the small triangular piece of land on the North Western boundary adjacent to the boundary of the New District within the New District, as it would seem that by failing to do so he will be in breach of his Boundary Policy in that all of the AONB

would not be included within the New District. I understand that in making this recommendation a 'Rule 15' Townland issue may arise and if that be the case then it is a matter for the LGBC to decide if in his opinion it is unavoidable but to split a Townland between two districts I pass no comment on this issue.

4.(1) **NUMBER OF WARDS WITHIN THE DISTRICT**

The Law:-

The statutory direction given to the LGBC in choosing the number of wards for a district is covered in Schedule I of the 2006 Order.

Rule 18 of the 2006 Order specifies that the number of wards (for districts other than Belfast City) shall be 40 but subject to where, having regard to the matters mentioned in Rule 17 of the 2006 Rules, the LGBC considers it desirable that the number of wards in a district should be more than 40, then the LGBC may increase the number of wards in that district by not more than 5 and where, having regard to the matters mentioned in Rule 17 of the 2006 Rules, the LGBC considers it desirable that the number of wards in any district should be fewer than 40, then the LGBC may decrease the number of wards in that district by not more than 5;

Rule 17 of the 2006 Order provides that in determining the number of wards within a district, regard shall be had to:-

- (a) the size, population and physical diversity of the district; and
- (b) the desirability that there should be a proper representation of the rural and urban electorate within the district.

Rule 19(1) of the 2006 Order provides that within any one district there shall, as far as reasonably practicable having regard to Rule 17 of the 2006 Order, be substantially the same number of local electors in each ward and the failure to implement this equality basis for the electorate of each ward may result in the need to increase or decrease the number of wards in a district.

It is my view that the wording of Rule 18 of the 2006 Order effectively creates a rebuttable presumption that there shall be 40 wards in any district other than Belfast City. However if the Rule 18 presumption of 40 wards is rebutted after having had regard to the issues raised in Rule 17 and if it is considered desirable then the ward numbers in a district can be increased or decreased. Further under Rule 19(1) if after have had regard to the issues raised in Rule 17, the number of the electorate per ward in a district is not substantially the same then again the ward numbers in a district can be increased or decreased for the purpose achieving electoral equality.

The Provisional Recommendation of the Local Government Boundaries Commissioner:-

The LGBC states at 4.6 on page 5 of his Provisional Recommendations Report that he is not, at present, persuaded there are sufficient grounds to

exercise his discretion to increase or decrease the number of wards in the New District.

The LGBC also states at 4.7 on page 5 of his Provisional Recommendations Report that compliance with Rule 19 (1) of the 2006 Order in having substantially the same number of electors in each Ward within a District caused significant difficulties in achieving absolute electoral equality including the geographical distribution of the electorate and the design and layout of housing developments. In considering this difficulty he had come to the conclusion that any deviation of more than 10% from a ward average within a district might not be regarded as "substantially the same". As a result virtually all of the wards within any district are within 10% variance from the electoral average.

It is the recommendation of the LGBC that the statutory presumptive number of 40 wards should be allocated to the New District.

Written representations which involved the number of wards allocated to the New District were received from:-

- Democratic Unionist Party
- Danny Kennedy MLA
- Newry and Mourne District Council and Down District Council
- Professor Kenneth Benoit
- Michael Keogh B.L.
- Councillor Michael Carr
- SDLP Down/Newry and Mourne
- Councillor Cadogan Enright
- SDLP Derrylecka Branch
- Micky Brady MLA

Oral submissions which involved the number of wards allocated to the New District were made by:-

- Councillor Michael Carr
- Professor Kenneth Benoit
- Michael Keogh B.L.
- Danny Kennedy MLA
- Una Vallelly
- Peter King
- Micky Brady MLA

Evidence:-

Councillor Michael Carr supplemented his written representation with an oral submission part of which made the case that the electoral numbers to be considered for the New District justified the allocation of 45 Wards. He made comparisons with ward averages in other districts. He said that, in the allocation of wards, Townlands should be protected but not at the expense of urban areas. He also based his argument for more wards as a result of wards being drawn from rural areas to urban areas to satisfy the 40 ward proposal of the LGBC for the New District and he says by doing so there is a proper representation issue because of problematic ward boundaries.

Comment:-

Councillor Carr is of the view that the New District is entitled to 45 Wards. He states that in the urban areas of the New District Townlands in different wards should not be a limiting factor as to the number of wards as Townlands are not sacrosanct in urban areas. He says that it is possible to create additional wards in urban areas and that wards have not been drawn from the urban area in the New District to facilitate 40 wards.

His written representation in relation to ward numbers for the New District focuses on an underrepresentation of electoral numbers in wards in the New District by comparison with wards in other districts. However I do not see that this is a proper consideration or of any significance, under Rules 17, or 19 (1) of the 2006 Order, for increasing the number of wards for the New District.

Councillor Carr does not specifically refer to Rules 17 or 19 (1) in his written representation or in his oral submission and he does not suggest that there is any failure on the part of the LGBC to have regard to Rules 17 or 19 (1) of the 2006 Order which might account for the New District not meriting an increase to 45 wards.

However I consider that I may be able to interpret some of his evidence as indicating that he considers that Rule 19 (1) has not been complied with on the basis that the electorate numbers in the wards in the New District are not "substantially the same" having regard to Rule 17(b) of the 2006 Order (the desirability that there should be a proper representation of the rural and urban electorate in the district).

I may also be able to interpret his high gross electoral ward figures for the New District as indicating that the population of the New District is also correspondingly high though he does not mention the population.

Evidence:-

McShane and Company Solicitors made a written representation instructed by Newry and Mourne District Council and Down District Council containing a Report by Professor Kenneth Benoit of the Department of Political Science, Trinity College, Dublin and a Legal Submission by Michael Keogh BL as a result of a Special Meeting of the said two Councils of the 23rd October 2008 in which it was minuted that Professor Benoit be appointed to put forward the case for the number of Wards for the New District provisionally recommended by the LGBC be increased from 40 to 45.

Professor Benoit made an oral submission to supplement his Report. He said that he had prepared his Report on the basis of a numerical analysis of the Ward Electoral Figures as provided in the Report of the LGBC. He says that 45 Wards are justified on the numerical grounds of increasing equity in average ward electorates.

Professor Benoit argues that average ward numbers in the New District will come closer to the National Ward averages as a result of an increase from 40 to 45 wards. He is critical of the electoral numbers in the wards in the New District on the grounds that there is too substantial a disparity in the number of electors when compared with other wards. He shows that with 40 wards, as provisionally recommended by the LGBC, the New District has the 2nd highest average electorate of the 10 Districts (excluding Belfast). He shows that with a result of an increase to 45 wards the New District would then have an electoral average, which would be the 4th highest electoral average (I think that his figure actually shows it would be the 3rd). In short a 45 ward New District would still be one of the larger average ward profile districts.

Professor Benoit acknowledges that the ward electorate marker standard used by the LGBC of a 10% variation in electorate numbers can be an acceptable variation but he says that there are too many wards on the limit of such a variation. Professor Benoit says that the LGBC has achieved the result of keeping the Ward Electorate numbers in the New District within a range of + or - 10% of the Mean Electorate numbers but that to achieve this result there were many wards on both the + or - 10% limit and too few wards close to the average electoral ward size. As a result the percentile (the highest to the lowest percentage) is very substantially higher than the 10% target and for the LGBC to have properly achieved his 10% target he should have been looking to a keep the Ward Electorate size to a range between + or - 5% of the Mean Electorate size. He argues that by increasing the number of wards for the New District to 45 then the LGBC would be better able to comply with his Rule 19 duty as to the electorate ward in the New District being substantially the same. He concludes that the LGBC has failed to achieve substantial equality as to the electoral numbers in the 40 Wards in

the New District. I am interpreting this part of his Report and his oral evidence as saying that the 40 Wards in the New District do not have substantially the same number of local electors because the LGBC restricted the New District to 40 wards.

Finally Professor Benoit acknowledges that if his request for 45 Wards for the New District was acceded to then using his numerical analysis to calculate the appropriate number of wards for the proposed district of Armagh and Bann that it would be underrepresented regardless of the number of wards was allocated to that proposed district.

Comment:-

I have some difficulty in relating Professor Benoit's evidence to the 2006 Rules governing the number of wards in a district.

Professor Benoit's expert evidence on the numerical data of electors makes comparisons of ward numbers in the New District with ward numbers in other districts. In this respect I consider that Professor Benoit's Report to be completely accurate but in no way helpful to the case for additional wards for the New District. Regardless of any logic in having regard to or taking cognisance of or comparison with the number of electors in wards in other districts to do so does not seem to be part of the statutory criteria in the decision making process for the assessment of the number of wards in a district.

Another element of Professor Benoit's evidence relates to his view that the LGBC has not produced electoral ward numbers which can be viewed as substantially the same and that 45 wards would reduce the deviations in electoral numbers in the wards created by the use of the presumptive 40 wards. I can only comment that 100 wards would even more reduce electoral ward number deviations but the percentage deviations will remain and can never be eliminated.

I do not understand how I can accept the view that the ward numbers are not substantially the same in wards in the New District within the terms of Rule 19 (1) of the 2006 Order. Professor Benoit does not deal with or even mention in determining whether the number of electors is substantially the same that he has had regard to the population, to the size or to the physical diversity of the New District (Rule 17(a) of the 2006 Rules). In any event it is my view that as a result of having regard to Rule 17 there can be a good and valid reason for the ward numbers not to be substantially the same. By establishing that ward numbers are not substantially the same is not in itself sufficient to show the need for more wards. In short if the Professor's evidence is that the number of local electors in each ward in the New District is not substantially the same then that evidence, in itself, does not rebut the

statutory presumption of 40 wards without him showing that regard to Rules 17 or to 19 (1) would influence the decision to increase the number of wards. Further while Professor Benoit is critical of the electoral numbers per ward on the percentile exceeding the + or - 10% variation and he makes the case that the LGBC could better comply with his obligation, so far as is reasonably practicable, to have substantially the same number of local electors in each ward in the New District (Rule 19 (1) of the 2006 Rules) by increasing the number of wards, he does not actually say he considers that the number of electors in wards is not "substantially the same" in the New District. Further and again he does not make any reference to the importance of the connection between the "substantially the same" obligation in Rule 19(1) and Rule 17 of the 2006 Rules.

Accordingly I do not consider that he has made the case for increasing the number of wards from the presumptive 40 wards on the basis that the electoral number in wards within the New District is not substantially the same.

Professor Benoit does provide figures which show that the New District is underrepresented but he does not say that the figures can be interpreted to indicate a failure to provide proper representation for the rural and urban electorate within the New District (Rule 17(b) of the 2006 Order). At best I can interpret his comment that 45 wards "better fulfils the criteria of representation with regard to the proper representation of the electorate within each ward ... within the new district" as intending to refer to proper representation of rural and urban wards in the New District.

Professor Benoit writes that he considers new wards could be added without significant disruption to other principles of drawing ward boundaries and without distorting proportionality to the urban areas of Newry, Warrenpoint, Kilkeel and Downpatrick. He also says that the potential to create five new wards can easily be identified by targeting wards in the current proposal that have above average electorates. Accordingly it is, to say the least, disappointing that Professor Benoit did not provide any Draft Plan to support his submission for 45 Wards for the New District. It may be that if Professor Benoit had attempted to do so he would quickly have become aware of the spatial difficulties presented by a mixed urban and rural district and of the serious ripple effect of ward boundary changes in the New District.

I am completely unconvinced that the evidence of Professor Benoit on its own is in any way sufficient to rebut the presumption that the New District is entitled to more than 40 wards or that there can be any proper criticism that the ward numbers in the New District are not substantially the same. He may have made legitimate points but the points were not related to the legislation. He stated the objective of his Report was to assess that the New District should have 45 wards on the basis of population figures but does not give

any population figures. His only comment, which I regard as in any way helpful to his objective, is that 45 wards better fulfil the criteria of proper representation as between urban and rural representation in the New District.

Evidence:-

Michael Keogh B.L. submits that the LGBC:-

1. is in breach of the rule laid down by Lord Greene in *Wednesbury* by not exercising the discretion given to him in Rule 18 of the 2006 Order; and
2. has arbitrarily fettered his statutory discretion.

Comment:-

In relation to the discretion given to the LGBC I am satisfied that a proper construction of Rule 18 creates a presumption that there shall be 40 wards for all districts (except Belfast) and that in considering the Rule there is a duty placed on the LGBC to have regard to the matters detailed in Rule 17 of the 2006 Order. The wording used by the LGBC in his Provisional Recommendation Report indicates that he has considered Rule 17 but was not persuaded to increase or decrease the presumptive 40 ward number. It is clear that after having regard to Rule 17 any decision to change from 40 wards is based on the desirability to do so. The weight to be placed on those matters specified in Rule 17 and the desirability to take resultant action is solely a matter for the LGBC. The legislation does not give any assistance in this regard. For example It is possible to envisage that the LGBC might be concerned as to Rule 17 issues but takes the view that he considers the desirability of all districts having the same number of wards to be more desirable and more significant than his concerns.

Further as the Provisional Recommendation Report of the LGBC is a provisional recommendation and it is subject not only to this further report and also other procedures and a final report and thereafter any subsequent implementation thereof is carried out by the legislature it is respectfully submitted that *Wednesbury* does not apply.

As to the LGBC fettering his own discretion - if the LGBC had decided on a marker/guideline to produce substantially the same number of local electors in the New District prior to his decision that he was not persuaded to change the presumptive number of 40 wards then I accept that the LGBC may have fettered his own discretion. However I am satisfied that the sequence of decision making was that only after the LGBC made his decision, that the presumptive number of 40 wards should not be changed, did he give consideration to what marker/guideline might ensure compliance with Rule

19 (1) of the 2006 Order. He came up with a marker/guideline that more than 10% from the ward average might not be regarded as substantially the same under the terms of the 2006 Order.

In summary I consider the sequence was that the LGBC considered the legislation and concluded that the presumptive 40 wards scenario under Rule 18 should apply. Once he had taken that decision then it became a matter of putting together 40 wards within the New District and in so doing he was concerned, and indeed, as he has said in his Provisional Recommendation Report he found it difficult, to comply with his Rule 19(1) to keep the numbers in the wards substantially the same. However in doing so he used a + or - 10% variation marker, which followed from the 40 ward decision so the LGBC did not fetter his own discretion.

In his submission Mr. Keogh relies on the evidence of his expert witness Professor Benoit. Mr Keogh himself refers to Rule 17 and the requirement that the LGBC shall have regard to, inter alia, the size and the population of the District but his expert Professor Benoit has not made any mention of the significance of Rule 17 in his representation or oral submission. Mr. Keogh does not offer any evidence in relation thereto to give support for the increase of the number of wards in the New District.

Evidence:-

The Ulster Unionist Party did not make any reference to the number of wards in its written submissions but in his oral submission Councillor Danny Kennedy MLA stated that his party was broadly supportive of the views of Newry and Mourne District Council calling for the allocation of 45 Wards for the New District.

Comment:-

Councillor Kennedy did not offer any evidence to indicate the reason for his party support of a 45 ward New District.

Evidence:-

The Democratic Unionist Party did not make any reference to the number of Wards in its written submissions but in his oral submission Peter King indicated that he was happy with the 40 Wards allocated to the District.

The SDLP Down/Newry and Mourne attacks the number of electoral numbers per ward in the New District on the basis that a + or - 10% Variation is not "substantially the same". It makes electoral comparisons with other areas. It is noted that many parts of their representation use exactly the same wording as Professor Benoit's Report.

Comment:-

The written submission does not put forward any supporting evidence within the statutory framework. Further no plan to support such a 45 ward New District was submitted to show that such a 45 ward could be put together to better comply with Rule 19 (1) of the 2006 Order and other statutory directions. It is most curious that the same wording is used by SDLP/Down/Newry and Mourne as that wording used by Professor Benoit in his representation but as I took the view that his representation did not relate to the statutory criteria and was not helpful to the case for additional wards so a similar comment obviously applies to the SDLP Down/ Newry and Mourne representation.

Evidence:-

Councillor Cadogan Enwright writes that his rationale for 45 Wards is based on population analysis and comparison with other Districts but does not provide any population figures or comparisons.

Comment:-

It is accepted that population figures are a matter of record and population is one of the issues to have regard to under Rule 17 of the 2006 Order Councillor Enwright does not give any population details. Again Councillor Enwright does not provide any plan of the New District to show that his 45 ward New District can be put together and does not infringe any other statutory directions.

Evidence:-

SDLP Derrylecka Branch, in its written submission, refers to the Derrylecka Ward as a rural entity and indicates that it would not be properly represented in any urban ward.

Comment:-

Rule 17(b) of the 2006 Order relates to proper representation of the rural and urban electorate within a district. However this submission relates to representation of a rural electorate within an urban ward and in its own it is respectfully suggested that such representation issue is not covered by Rule 17(b).

Evidence:-

Mickey Brady supported his written documentation with an oral submission which focussed on his perception that in the New District there is a lack of proper representation of the urban electorate in wards in urban areas and specifically in Newry City where parts of Newry City were becoming a small part of rural wards. He supported and wanted to be associated with the approx. 300 letters sent from residents of urban areas complaining of being incorporated into rural wards. He specifically referred to a rural ward called Fathom, which would be eating into Newry City. He indicated the Newry areas where he considered it would be possible and appropriate to add the extra wards but he did not produce any actual plan to show that his 45 Ward scenario would work.

Comment:-

Mickey Brady did not refer to Rule 17(b) of the 2006 Order but the content of his written representation and oral submission is that the urban population of the New District is under represented by the way in which the wards have been drawn. He cites Newry City as an example of what he believes to be under representation of urban areas in the New District. In relation to those urban electors to be placed in a rural ward called Fathom he uses this example to attempt to show that there is not proper representation of the urban electorate within the New District. He did prepare some plans and documentation to illustrate how additional wards could be created around Newry City.

Evidence:-

Una Vallely, a resident of Dublin Road, Newry for over 35 years appeared and she said that she was worried about the impact of her urban community being subsumed in a rural community. She expressed concerns that her urban Newry ward could simply not be properly represented in the ward to be known as Fathom. She expressed the view that councillors have different expertise and no councillor could reasonably be expected to have the ability to reflect the needs and expectations of such a diverse electorate.

Comment:-

I was very impressed by this lady who had come a long to speak at the Public Hearing and clearly spoke from the heart. Her concern related to her being moved after 35 years from an urban ward to a rural ward and her perception of the inability of any public representative of this new rural ward, in which she was being placed, to properly represent both the rural and urban electorate. Rule 17(b) refers to a proper representation of the rural and urban electorate within a district and on a strict interpretation her

evidence is of proper representation within a ward. However I feel it reasonable to consider her evidence as another example of an urban and rural representation issue throughout the New District particularly when taken with other similar evidence given at the Public Hearing.

GENERAL COMMENTS

I have considered all the representations and submissions in relation to the issue of any shortfall in the number of seats allocated to the New District by the LGBC. This issue is fundamental as the number of wards equate to the number of seats on the Macro Council.

As I have indicated it is my view that it is necessary to overcome the statutory 40 ward presumption of Rule 18 of the 2006 Rules.

Rule 19(1):-

The presumption there shall be 40 wards is rebuttable by establishing that the 40 wards allocated to the New District by the LGBC has failed to provide electoral equality in wards in the New District and that an increase in the number of wards would achieve such electoral equality. However even if it is established that there is an electoral equality issue, it is still a matter for the LGBC to consider and decide if a change in the 40 ward number is desirable.

In this case I have not been satisfied it has been established by the evidence given at the Public Hearing that the LGBC has failed to provide electoral equality and the 40 ward presumption has been rebutted. In fact I am satisfied that the number of electors in any ward in the New District is substantially the same within the statutory criteria (Rule 19(1) of the 2006 Rules as far as reasonably practicable having had regard to Rule 17 of the 2006 Rules). I believe that the LGBC has achieved an excellent result in terms of electoral equality in such a mixed urban and rural district as the New District having regard to the straight jacket in which he placed himself with his + or - 10% guideline.

Accordingly on the evidence I consider that the number of electors in the wards of the New District is substantially the same and on this basis I find no reason to recommend that the number of wards in the New District be increased from 40 wards.

Rule 17(b):-

Rule 17(b) of the 2006 Order relates to proper representation in a district. On the one hand it cannot be a proper interpretation of Rule 17(b) that regard shall be had to proper representation evidence in respect of a single ward of

a district and on the other hand it cannot be a correct interpretation of Rule 17(b) that regard shall be had to the proper representation evidence only if there is such evidence for every ward of the district. I take the view that the cumulative effect of proper representation evidence in several wards is evidence which can be properly regarded as coming within Rule 17(b) in relation to a district. Turning to the New District there was some general evidence adduced that the 40 ward allocation was not providing a proper representation of the urban and rural electorate. However I did not consider that the evidence on its own was so satisfactory as to rebut the statutory 40 ward allocation. If the evidence had been so satisfactory then I can say I would only have been persuaded of the desirability for no more than three additional wards to safeguard such representation. Satisfactory evidence on the proper representation issue sufficient to rebut the statutory 40 ward number and a decision that it is desirable to increase ward numbers may establish a need to increase ward numbers but it does not establish that an increase to the statutory maximum number of 45 wards is the appropriate answer to a representation issue.

Further, even if convincing evidence on the proper representation issue had been given at the Public Hearing to the effect that the statutory allocation of 40 wards had been rebutted then in that circumstance the duty of the LGBC is only to have regard to the desirability of changing the number of 40 wards. The statutory obligation of making such a decision on the basis of desirability is weak and the weight to be placed on such desirability is a solely matter for the LGBC.

In short I acknowledge that I have heard and had regard to evidence on the proper representation issue given at the Public Hearing (Rule 17(b) evidence) but I am not satisfied that the evidence alone is sufficient to rebut the statutory presumption of the 40 wards for the New District. Accordingly the decision as to whether it is desirable that there should be any increase in ward numbers nevermind an increase to the maximum 45 wards does not arise.

Rule 17(a):-

Turning to evidence given to rebut the statutory allocation of 40 wards on the basis that in determining the number of wards for the New District the LGBC is obliged to have regard to the size, the population and the physical diversity of the New District and also to the desirability that there should be a proper representation of the rural and urban electorate in the New District (Rule 17 (a) and (b) of the 2006 Rules) there has not been any rebuttal evidence in this regard, nevermind evidence sufficient to justify the allocation of any additional wards in the New District. The written representations and the oral submissions from Newry and Mourne District Council and Down District Council, Professor Benoit, the Ulster Unionist Party, the SDLP, the

Green Party and Sinn Féin (all of whom expressed support for a 45 Ward New District) did not present any evidence as to the size, or to the population or to the physical diversity of the New District.

However the office of the LGBC has furnished evidence by way of statistics showing the size of the New District and the population of the New District and maps of the New District showing the physical diversity of the New District.

For the avoidance of any misunderstanding in the statutory text I understand "size" as being a spatial term in respect of a district, "population" as being the population (and not electorate) of a district and "physical diversity" as being the different physical characteristics and the use of the lands around, in and about a district. I consider that the reference to the size, the population and the physical diversity of the New District in Rule 17(a) of the 2006 Rules can only be understood and construed for the purpose of the legislation in comparing the size, the population and the physical diversity of the New District with the same in the other 10 districts.

The size and the population of a district are the first two of three points in Rule 17(a) of the 2006 Rules to have regard to in determining the number of wards in a district. The statistics record that the size of the New District is the 4th largest of all 11 districts (the three larger in size are the 6th, the 9th and the 11th in terms of population) while the population of the New District is the 3rd largest of all 11 districts (the two higher populations are the 5th and the 11th in terms of size). These statistics are in the Appendix to this Report.

The physical diversity of a district is the third of three points in Rule 17(a) of the 2006 Rules to have regard to in determining the number of wards in a district. The maps of the New District show me that the New District has a City, Towns, Villages, the Mountains of Mourne, various acclaimed woodlands, a border with the Republic of Ireland and the Irish Sea on its boundaries and it seems very obvious that the New District is at the least as physically diverse as, and probably more physically diverse than, any of the other 10 districts.

RECOMMENDATION

1. I can understand, and I am sympathetic to, the uniformity and consistency concept in all the districts (other than Belfast City) having the same number of wards. However having regard to the factual information that the size, the population and the physical diversity of the New District are remarkably greater than the other districts and combining this information with the proper representation evidence in relation to the rural and urban electorate within the New District I consider that the 40 ward statutory allocation is totally rebutted. Turning to whether it is desirable to change the number of wards

for the New District it is my personal view that, by virtue of these conclusive findings, not in respect of one issue, but all four of the issues, specified in Rule 17 together with the constitutional values of electoral equality and fairness which permeate the 2006 Order I consider that it is desirable to allocate more wards for the New District.

On the evidence I consider that I cannot find it is desirable that any more than 3 additional wards should be allocated to the New District and I consider that 2 of these wards should be created around Newry City and 1 ward should be carved out around Warrenpoint and Rostrevor so enabling a better representation of the urban and rural electorate.

2. I am very aware of how difficult and how much work is involved in making any changes to wards for any district having regard not only to Rules 17 and 19(1) of the 2006 Order but also to Rules 14,15, and 16 of the 2006 Order. I am also conscious of my frustration and annoyance at the failure of those who asserted the need for more wards to do so.

Accordingly with the assistance of Gerard Moran of Land and Property Services I have prepared a 43 ward New District, which I hope and think is in accordance with the statutory directions as to ward boundaries (I think that I have only split one rural Townland when it was unavoidable and then have used a readily identifiable boundary) and is in reasonable conformity with the difficult, self imposed guidelines of the LGBC. I hope this is helpful and can be used for consideration as the basis for a New District with 43 wards (details of the resultant ward electorate are shown in the Appendix hereto).

4.(2) THE NAMES OF WARDS IN THE DISTRICT

The Law:-

The LGBC is not given any statutory direction or guidance in choosing a name for a ward.

The Provisional Recommendation of the Local Government Boundary Commissioner:-

The LGBC has retained current ward names (where possible) for existing wards and where this has not been possible he has sought to use names which he considers are of relevance to the locality.

Written Representations involving ward names for the New District were received from:-

- Approx. 300 residents in the proposed new ward of Damolly.
- Down/Newry and Mourne SDLP
- Mickey Brady MLA
- PJ Toal
- Maria Caraher
- Ciara Pickering

Oral submissions involving ward names for the New District were made at the public hearing by:-

- Ewan Morgan
- Una Vallely
- Mickey Brady

Evidence:-

In general the 300 resident letters and the Down/Newry and Mourne SDLP representation and Ewan Morgan and Micky Brady in their oral submissions complained, inter alia, that there was not any locality relevance or historical rationale for some of the names allocated by the LGBC. By way of example, comments indicated that the proposed Damolly Ward was not in Damolly but had been named Damolly by the LGBC erroneously because a Shopping Complex had been named Damolly in Windsor Hill. They said that wards should be named on historical grounds. Additionally Down/Newry and Mourne SDLP requested the Abbey ward be renamed St. Patrick's to preserve historic links with St. Patrick and to recognise the location of Newry Cathedral and the Church of Ireland.

Una Vallely pointed out that she had lived in the ward of Drumalane for over 35 years and considered that this traditional ward name was appropriate.

In written letters PJ Toal suggested that street names and Townlands should be displayed in Irish (I am taking it that he was referring to wards). Ciara Pickering said that she was the cultural officer in St. Malachy's Castlewellan GAC and that her and other families socialised in Irish and that it was imperative that official recognition be given to ward names in Irish and Maria Caraher suggested that Council Area names (I am choosing to interpret as ward names) should be bilingual.

GENERAL COMMENTS-

Investigation seems to confirm that some of the comments in relation to the ward names are soundly based and there seems to be some merit in the representations and submissions as regards Damolly and Drumalane.

However it is respectfully suggested that the proposal to change the name of Abbey ward to St. Patrick's would have had a more receptive ear if the Down/Newry and Mourne SDLP had adduced substantially more support for their proposal from others including the two Churches. Other than the three letters as to Irish and bilingual ward names there was no oral submission to support the letters at the Public Hearing. It was not demonstrated and I am not convinced that there was any great pressure for any name changes other than those above

RECOMMENDATION

I am recommending that the proposed additional new urban wards will be called Drumalane and Lisdrumgullion (in Newry City) and Seaview (in Warrenpoint). I think that these names will acknowledge the representations and submissions made and will be non controversial. I have recommended splitting the Windsor Hill ward so that the Damolly ward will be in Damolly. Otherwise I recommend adoption of the names as provisionally recommended by the LGBC.

4.(3) THE BOUNDARIES OF WARDS WITHIN A DISTRICT

The Law:-

The statutory direction given to the LGBC in choosing ward boundaries in a district is covered by the following rules specified in Schedule I to 2006 Order.

Rule 14, which provides that regard shall be had to the desirability of determining district boundaries, which are readily identifiable;

Rule 15, which provides that a Townland shall not, except where in the opinion of the LGBC it is unavoidable, be included partly in one ward and partly in another;

Rule 17, which provides that in determining the boundaries of wards within a district regard shall be had to:-
(a) the size, population and physical diversity of the district; and
(b) the desirability that there should be a proper representation of the rural and urban electorate within the district; and

Rule 19 (1), which provides that within any one district there shall, as far as reasonably practicable having regard to paragraph 17, be substantially the same number of local electors in each ward.

The Provisional Recommendation of the Local Government Boundaries Commissioner

The LGBC takes the view that for cities and urban area Townland boundaries are no longer of relevance in terms of ward boundaries and electoral equality could not be achieved by adherence to them. However he takes a different view for rural areas where he has only departed from Townland boundaries in order to achieve electoral equality or to use a more readily identifiable boundary. He says that he has been guided by the principle of electoral equality as being fundamental in formulating recommendations for ward boundaries.

Written representations involving the ward boundaries for the New District were received from:-

- Conor Murphy MP MLA
- Ulster Unionist Party
- Professor Benoit
- Councillor Michael Carr
- Down/Newry and Mourne SDLP

Oral submissions involving the ward boundaries for the New District were made by:-

- Councillor Hearty

Evidence:-

Conor Murphy wrote to say that there were clear separate geographical and historical identities as between Newry and South Armagh which the new Council structures should seek to foster. He also indicated that he considered that there was a clear identifiable and logical ward boundary on the Dublin Road north of the Cloughoge roundabout.

Comment:-

I do not pretend to understand this comment and having regard to the statutory criteria I cannot understand its relevance to the Public Hearing. I think that his ward boundary concern has been addressed by my proposal for a new Newry City ward to be called Dromalane.

Evidence:-

The Ulster Unionist Party seeks consideration be given to the redrawing of the wards in the Ballynahinch area and in Crossgar so that these urban areas are not divided.

Comment:-

No further evidence was adduced and there is no suggestion of non compliance by the LGBC of Rules 14, 15, 17 or 19 (1) of the 2006 Order so there does not seem to be any basis for revising the provisional recommendations of the LGBC in this regard.

Evidence:-

Professor Benoit's evidence as to ward boundaries for the New District overlaps with his evidence in relation to the number of wards in the New District. He says that the ward boundaries produce a ward electorate in the New District which is not substantially the same and breaches Rule 19(1) of the 2006 Order. If the ward boundaries were changed he says that there could be ward electorate equality in the New District and compliance with Rule 19 (1).

Comment:-

I do not accept that the ward electorate is not substantially the same and on that basis I do not accept that there is any need to change the ward boundaries proposed by the LGBC.

Evidence:-

Councillor Carr raised various concerns about ward boundaries.

Comment:-

Many of his concerns are no longer relevant as they have been superseded by the proposed creation of the additional Seaview ward. He also considers that it should be possible to drive around ward boundaries but I cannot find any such statutory criteria in respect of ward boundaries. I can only suggest that he is misinterpreting the Rule 14 identifiable ward boundary criteria. Investigation showed that ward boundaries often followed gardens but did not run through gardens.

Evidence:-

SDLP Down/Newry and Mourne wrote to express concern over ward boundaries in the Warrenpoint area.

Comment:-

The concerns are no longer relevant as they have been superseded by the proposed creation of the additional Seaview ward. Again it is suggested that it should be possible to drive around ward boundaries but I do not see any such statutory criteria. Investigation showed that ward boundaries often followed gardens but did not run through houses or gardens.

Evidence:-

Councillor Hearty expressed his view that an obvious ward boundary for the Fathom ward should be the railway line.

Comment:-

The proposed additional Drumalane ward will create the ward boundary sought by Councillor Hearty.

Evidence:-

P.J. Bradley expressed concern as to a ward boundary on the Newry Road between Newry and Warrenpoint. He explained and proposed the ward boundary be changed at the Narrowwater Roundabout as he considered that it should logically be on the Narrowwater side of the roundabout.

Comment:-

There is no argument with Mr. Bradley over his proposal and as his proposal is not in contravention of the statutory directions and does not infringe any of the

statutory directions or involve any electorate change it is recommended that the ward boundary be so changed.

RECOMMENDATION

The ward boundaries remain as provisionally recommended by the LGBC except where they are changed as a result of the creation of the additional wards and the nominal ward boundary change herein detailed.

5. **ADDITIONAL REPRESENTATIONS**

In relation to the letter of the 2nd December of Finbar Lambe to the Secretary of the Local Government Boundaries Commission the issues raised by him as to the relationship between a District Council and Westminster and financial implications of the local government reorganisation for Warrenpoint do not fall within my statutory remit.

I have been furnished by the Local Government Boundary Commission with some general representations. The representations are general in the sense that they are not specifically addressed to or requested to be handled at the Public Hearing for the proposed Newry City and Down District.

The first such representations comprise a set of 15 e-mails sent on the 10th, 11th and 12th November to the Secretary of the Local Government Boundaries Commission which make a case for the use of the Irish language in Ward and District names in Northern Ireland. There is also one other e-mail in like vein of the 7th November. These general representations would not have influenced my recommendations on the New District name or its Ward names. Inspection of the relevant legislation and statutory guidance seems to indicate that the use of a minority language, while appropriate and desirable in certain circumstances, is always subject to appropriate demand and some assessment of needs and wishes for such use. I do not think that I have received evidence of any such demand from the electorate of the New District but in any event I question if it was envisaged by the legislation that such a decision which involves assessment of public wishes and demand should be taken by the LGBC. It is suggested that such decision should be taken by a District Council or indeed by Parliament.

The Presbyterian Church in Ireland makes a representation which broadly supports the local government reorganisation but expresses concern as to possible loss of local identity. This was not a major issue in the Newry City and Down Public Hearing but if it had been I do not see under the statute that loss of local identity is a matter to which I could properly have taken any cognisance.

The written comments of the Equality Commission or of NIPSA do not seem to be of any relevance to me.

6. SUMMARY OF THE REPORT OF GARRETT E. O' REILLY INTO THE PROVISIONAL RECOMMENDATIONS OF THE LOCAL GOVERNMENT BOUNDARIES COMMISSIONER FOR THE PROPOSED LOCAL GOVERNMENT DISTRICT OF NEWRY CITY AND DOWN

It is recommended that:-

1. the name of the district is Newry City, Mourne and Down District Council;
2. the boundaries of the New District are as provisionally recommended by the Local Government Boundaries Commissioner except that the Townlands of Annahunshigo and Drumlee are excluded and the small triangular piece of land on the North Western boundary is included with the intent that all the Area of National Beauty is comprised within the New District;
3. the number of the wards in the district is increased by 3 wards to 43 wards by the addition of 2 Newry City wards and of 1 ward between Warrenpoint and Rostrevor;
4. the names of the wards are as provisionally recommended by the Local Government Boundaries Commissioner except that there is an exchange of names as between the revised Windsor Hill ward and the Damolly ward and the names for the proposed additional 2 Newry City wards are suggested as Dromalane and Lisdrumgullion and for the name for the proposed additional Warrenpoint/Rostrevor ward is suggested as Seaview; and
5. the boundaries of the wards are as provisionally recommended by the Local Government Boundaries Commissioner except where they are varied as a result of the creation of the additional wards and the nominal resultant ward boundary changes.

7. CONCLUSION

I would wish to record my thanks to all the team from the Office of the Local Government Boundaries Commissioner and in particular John McAreavey who produced all information and documentation with efficiency and with a smile. I would also wish to say a big thank you to all of the Land Property Services team, who assisted me including the pragmatic Enda McAtamney, Chris Davidson, Gerard Wilson and particularly the enthusiastic young assistant Gerard Moran, who was particularly helpful not only during the Public Hearing but afterwards in assisting in the preparation of this Report.

APPENDIX

POPULATION and DISTRICT SIZE (Mid Year Estimate 2006) (taking account of transfers from Lisburn, Castlereagh, North Down and Banbridge – Slieve Croob)

	POPULATION		SIZE (Km ²)
Belfast City	317,699	Fermanagh and Omagh	2,728
Armagh City and Bann	189,052	Causeway	1,798
Newry City and Down	161,746	Mid Ulster	1,714
Ards and North Down	154,860	Newry City and Down	1,539
Derry City and Strabane	147,036	Armagh City and Bann	1,502
Causeway	136,830	Derry City and Strabane	1,303
Antrim and Newtownabbey	132,714	Mid Antrim	1,047
Mid Antrim	132,503	Antrim and Newtownabbey	572
Mid Ulster	129,522	Lisburn City and Castlereagh	540
Lisburn City and Castlereagh	128,237	Ards and North Down	451
Fermanagh and Omagh	111,600	Belfast City	115

REPRESENTATIONS

Written Representations were received from:-

- Approx. 300 residents in the proposed new ward of Damolly
- Conor Murphy MP MLA
- Democratic Unionist Party
- PJ Toal
- Margaret Hoben
- Ulster Unionist Party
- Councillor Danny Kennedy MLA
- Mc Shane and Company on behalf of Newry and Mourne District Council
- Banbridge District Council
- Councillor Michael Carr
- SDLP Down/Newry and Mourne
- Paul Hoben
- P.J. Bradley MLA
- Maria Caraher
- Ciara Pickering
- Councillor Cadogan Enright
- Martin McAlinden
- Derrylecka SDLP Branch
- Mickey Brady MLA

Oral Representations were made at the public hearing by:-

- Councillor Michael Carr
- David Cunningham
- Professor Kenneth Benoit
- Michael Keogh B.L.
- Councillor Danny Kennedy MLA
- Ewan Morgan
- Una Vallely
- Margaret Hoben
- Paul Hoben
- Mickey Brady MLA
- P.J. Bradley MLA
- Councillor Michael Coogan
- Peter King
- Councillor Terry Hearty
- John McCallister MLA
- Graham Truesdale