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REVIEW OF PRESERVED COUNTY BOUNDARIES

REPORT AND PROPOSALS

1. INTRODUCTION

1.1 In accordance with the directions issued by the National Assembly for Wales on 11 March 2002, we, the Local Government Boundary Commission for Wales (the Commission), have completed the review of preserved county boundaries.

2. EXECUTIVE SUMMARY

2.1 We propose a minor change to the boundary between the preserved counties of Mid Glamorgan and South Glamorgan to reflect the recent changes in the boundary between the County Borough of Rhondda Cynon Taff and the County Borough of The Vale of Glamorgan. We also propose a change to the boundary between the preserved counties of Clwyd and Gwynedd to include the whole of the unitary authority of Conwy within the preserved county of Clwyd and we propose a change to the boundary between the preserved counties of Gwent and Mid Glamorgan to include the whole of the unitary authority of Caerphilly within the preserved county of Gwent.

3. SCOPE AND OBJECT OF THE REVIEW

3.1 Section 54(1A) of the Local Government Act 1972 (the Act) provides that the Commission may in consequence of a review conducted by them make proposals to the National Assembly for Wales for effecting changes appearing to the Commission desirable having regard, in particular, to the purposes for which the preserved counties are retained.

National Assembly for Wales’ directions

3.2 In accordance with Section 56(1)(c) of the Act the National Assembly for Wales has directed the Commission to conduct a review of the boundaries of the preserved counties of Wales.

Preserved Counties

3.3 A ‘preserved county’ is defined by the Local Government (Wales) Act 1994 as follows:

“preserved county” means any county created by the 1972 Act as a county in Wales, as that county stood immediately before the passing of this Act but subject to any provision of this Act, or made under the 1972 Act, redrawing its boundaries.
3.4 Details of the areas covered by the preserved counties can be found at Appendix 1 and a map of Wales showing the existing preserved counties can be found at Appendix 4.

3.5 The “preserved counties” were preserved by the Local Government (Wales) Act 1994 in order to define county areas for the purposes only of certain statutory provisions listed in Schedule 2 of the 1994 Act. The provisions concerned were found in the following statutes:

- The Lieutenancies Act 1997;
- The Sheriffs Act 1887;
- The Defence Act 1842;
- The Licensing Act 1964;
- The Sea Fisheries (Shellfish) Act 1967;
- The Interpretation Act 1978;
- The Justices of the Peace Act 1979;
- The Magistrates’ Courts Act 1980;
- The Representation of the People Act 1983;
- The Parliamentary Constituencies Act 1986; as well as

A further description of the relevant provisions of these Acts can be found in summary form at Appendix 2.

Guidance Booklet

3.6 In order to explain the term ‘preserved county’ and to outline the scope of the review and to explain the procedures which the Commission will follow a guidance booklet has been produced copies of which are available from the Commission and from the Commission’s web site at www.lgbc-wales.gov.uk. As has been pointed out in the representations received from the Association of British Councils (set out in full at Appendix 3) the Guidance booklet incorrectly states at paragraph 1.3 ‘In consequence of such a review, the Commission may make proposals to the National Assembly for Wales for effecting changes appearing to the Commission desirable in the interests of effective and convenient local government’. The Scope and Object of this review were however correctly stated at paragraph 3.1 of the Draft Proposals, and the Commission confirms that in carrying out this review of the preserved counties it has had regard in particular to the purposes for which the Preserved Counties are retained.

Procedure

3.7 Section 60 of the Act lays down procedural guidelines which are to be followed in carrying out a review. In line with that guidance we wrote on 18 March 2002 to the Unitary Authorities, the Lords-Lieutenant, the Members of Parliament, the Assembly Members, the local authority associations, the police authorities, the political parties and other interested bodies to inform them of our intention to conduct the review, to request their preliminary views and to provide them with a copy of the Commission’s guidance booklet including the National Assembly for Wales’ directions to the Commission. We also publicised our intention to conduct the review in newspapers and asked the councils to display public notices.
4. **DRAFT PROPOSALS**

4.1 We received representations from the Lords Lieutenant of Gwent, Mid Glamorgan, and West Glamorgan, Peter Hain MP, Paul Murphy MP, Gareth Thomas MP, Don Touhig MP, William Graham AM, Carwyn Jones AM; Gwenda Thomas AM, Councillor Jeffrey James, Leader of The Vale of Glamorgan County Borough Council, The Welsh Conservative Party, Conwy Conservative Association, Isle of Anglesey County Council, Caerphilly County Borough Council, Carmarthenshire County Council, Ceredigion County Council, Conwy County Borough Council, Denbighshire County Council, Gwynedd County Council, Pembrokeshire County Council, Merthyr Tydfil County Borough Council, Monmouthshire County Council, Neath Port Talbot County Borough Council, City and County of Swansea Council, Wrexham County Borough Council, Welsh Local Government Association, North Wales Association of Town Councils, Llandudno Town Council, Gwent Police Authority; and a number of other interested bodies. These representations were taken into consideration and summarised in our Draft Proposals published on 26 July 2002.

4.2 Having considered the representations made to us, we proposed three changes to the existing preserved county boundaries. We proposed a minor change to the boundary between the preserved counties of Mid Glamorgan and South Glamorgan to reflect the recent changes in the boundary between the County Borough of Rhondda Cynon Taff and the County Borough of The Vale of Glamorgan. We proposed a substantial change to the boundary between the preserved counties of Clwyd and Gwynedd to include the whole of the unitary authority of Conwy within the preserved county of Clwyd and we also proposed a substantial change to the boundary between the preserved counties of Gwent and Mid Glamorgan to include the whole of the unitary authority of Caerphilly within the preserved county of Gwent.

4.3 Copies of the Draft Proposals were sent to all the councils, bodies and individuals referred to in paragraph 3.7 seeking their views. A copy was also sent to anyone who had submitted preliminary comments. By public notice we invited any other organisation or person with an interest in the review to submit their views. Copies of the Draft Proposals were made available for inspection at the offices of the 22 unitary authorities in Wales and at the offices of the Commission.

5. **REPRESENTATIONS RECEIVED IN RESPONSE TO THE DRAFT PROPOSALS**

5.1 We received representations from the Lords Lieutenant of Gwynedd, Mid Glamorgan, and South Glamorgan, Paul Murphy MP, Don Touhig MP, David Davies AM, The Welsh Conservative Party, Mrs J Smith, Chairman of the North Wales Conservatives, Caerphilly County Borough Council, Conwy County Borough Council, Denbighshire County Council, Gwynedd County Council, Newport County Borough Council, Pembrokeshire County Council, Council, City and County of Swansea Council, Wrexham County Borough Council, The Vale of Glamorgan County Borough Council, Bay of Colwyn Town Council, Llandudno Town Council, Rudry Community Council and a number of other interested bodies and residents. We considered all of these representations carefully before we formulated our proposals.
5.2 **Professor Eric Sunderland, Lord Lieutenant of Gwynedd** said that the Commission’s proposal to include the whole of the unitary authority of Conwy within the preserved county of Clwyd was ill-judged and lacked cogency. He considered that no case had been made for changing the boundary between Gwynedd and Clwyd in the manner proposed. Having carried out many official functions in Conwy without difficulty or adverse comments he considered that the current system operated satisfactorily and that the status quo would be widely acceptable. However, should the Commission not retain the status quo then he firmly believed that Conwy should become part of the Preserved County of Gwynedd as he considered that the greater part, if not the whole of Conwy was historically always part of, or closely associated with Gwynedd. He did not know of any meaningful association either historically or contemporaneously between the costal strip of Conwy, including Llandudno, with Clwyd.

5.3 **Mary Squire, Clerk to the Lieutenancy of Mid Glamorgan** said she had consulted the Lord Lieutenant and they had no further comment to add to their initial representation that from the perspective of the Mid Glamorgan Lieutenancy the division of the County Borough of Caerphilly between two Lieutenancy areas did not in practice give rise to any special problems.

5.4 **Captain N Lloyd-Edwards, Lord Lieutenant of South Glamorgan** said he had no objection to the Commission’s proposals.

5.5 **Paul Murphy MP** supported the Commission’s proposal to include the whole of the unitary authority of Caerphilly within the preserved county of Gwent.

5.6 **Don Touhig MP** supported the Commission’s proposal to include the whole of the unitary authority of Caerphilly within the preserved county of Gwent.

5.7 **David Davies AM** said that he supported the Conservative Party’s representation that the whole of Caerphilly County Borough be included in Mid Glamorgan rather than Gwent for the following reasons:

   i) The largest area and the largest number of electors in Caerphilly currently falls within the preserved county of Mid Glamorgan. Therefore including all of Caerphilly within Mid Glamorgan would cause the least disruption;

   ii) Mid Glamorgan currently has the largest population of any preserved county. However if the whole of Caerphilly were included in Gwent then that would become the largest preserved county in terms of population. It would also be disproportionately larger than the other South Wales preserved counties;

   iii) The area of Caerphilly within the preserved county of Gwent is the self contained area of Islwyn, co-terminous with the parliamentary constituency of Islwyn, whereas the area of Caerphilly in the preserved county of Mid Glamorgan includes not only the area of the Caerphilly constituency but also part of the Merthyr Tydfil and Rhymney constituency. This demonstrates the links that Caerphilly has with these areas; and

   iv) Caerphilly has much more in common with Merthyr Tydfil and Rhondda Cynon Taff than it does with rural Monmouth and Gwent. Caerphilly, being just north of Cardiff, has always been part of Glamorgan as has Bargoed, the other main population centre within the Caerphilly Unitary Authority.
5.8 **The Welsh Conservative Party** said they had no objection to the minor boundary change between the preserved counties of Mid Glamorgan and South Glamorgan. They also fully supported the Commission’s proposal to include the whole of the unitary authority of Conwy within the preserved county of Clwyd for the reasons outlined in their initial representation. They noted the support of the Audit Commission for this proposal, particularly the argument that the Conwy and Denbighshire Trust overlooks a geographical area that aligns the area of the Conwy unitary authority with that of the Denbighshire unitary authority. They considered this close link, together with the affinity that the part of Conwy currently within Gwynedd has with Clwyd, to be compelling reasons for the proposal.

They did not support the Commission’s proposal to include the whole of the Caerphilly unitary authority within the preserved county of Gwent. They considered that extra disruption would be caused by such a change because of the movement of over 60% of the electorate. It would also cause inconvenience and break local ties within the existing parliamentary constituencies. The Islwyn Parliamentary Constituency is totally self-contained within Gwent whilst the Merthyr Tydfil & Rhymney Parliamentary Constituency is split between the unitary authorities of Caerphilly and Merthyr Tydfil. Including the whole of Caerphilly within Gwent would therefore divide the Merthyr Tydfil and Rhymney Constituency between the preserved counties of Mid Glamorgan and Gwent. As constituencies cannot cross preserved county boundaries, except to reduce an excessive disparity, this would mean having to considerably alter the current Merthyr Tydfil and Rhymney Parliamentary Constituency.

5.9 **Mrs J Smith, Chairman of the North Wales Conservatives** said she supported the Conservative Party’s representation to the Commission that the whole of the Conwy Unitary Authority be included in the preserved county of Clwyd.

5.10 **Caerphilly County Borough Council** supported the Commission’s proposal to include the whole of the unitary authority of Caerphilly within the preserved county of Gwent, which they considered would achieve consistency in boundary considerations and avoid duplication of administrative, judicial and ceremonial functions which otherwise arise. They also noted however, that such a change would have the subsequent effect of splitting the Merthyr Tydfil and Rhymney Parliamentary Constituency between the preserved counties of Mid Glamorgan and Gwent. They pointed out that this ran contrary to Rule 4 of Schedule 2 of The Parliamentary Constituencies Act 1983 which requires that, so far as is practicable, no preserved county or any part of a preserved county shall be included in a constituency which includes the whole or part of any other preserved county. They enquired whether the convenience of the whole of Caerphilly being included within the preserved county of Gwent would satisfy the condition ‘so far as is practicable’ contained in Schedule 2 of the Act.

5.11 **Conwy County Borough Council** supported the Commission’s proposal to include the whole of the Conwy unitary authority within the preserved county of Clwyd. They also reiterated their previous comment that they considered that the system of preserved counties should be modernised.

5.12 **Denbighshire County Council** said they still felt that there were no substantial issues warranting a change to preserved county boundaries. However, they also felt that if a change were to be effected in the boundary between the preserved counties of Gwynedd and
Clwyd, it would be preferable for Conwy to be included in Clwyd rather than Gwynedd. They considered that Conwy had stronger links with Denbighshire than Gwynedd in terms of services such as the NHS Trust, the Central Division of North Wales Police and Menter Iaith Conwy-Dinbych.

5.13 **Gwynedd County Council** opposed to the Commission’s proposal to include the whole of the unitary authority of Conwy in the preserved county of Clwyd. They considered that the existing boundary of the preserved county of Gwynedd did not cause any difficulties in terms of the functions associated with the preserved county and therefore there was no reason for changing it. They pointed out that including the whole of Conwy within Clwyd would result in the current Conwy and Meirionnydd Nant Conwy parliamentary constituencies being divided between preserved counties. They considered that should the boundary be moved that the whole of the unity authority of Conwy should be included in Gwynedd which would avoid difficulties in revising parliamentary and Assembly seats and would also ensure a better balance of population between the two preserved counties in North Wales.

5.14 **Newport County Borough Council** supported the Commission’s proposal to include the whole of the unitary authority of Caerphilly within the preserved county of Gwent.

5.15 **Pembrokseshire County Council** wished to press for the restoration of the Lieutenancy and Shrievalty based on the geographical area covered by the County of Pembrokseshire.

5.16 **Powys County Council** supported the Commission’s view that the boundary of the preserved county of Powys should remain unchanged.

5.17 **The City and County of Swansea Council** noted the Commission’s proposals but had no comments to make.

5.18 **The Vale of Glamorgan County Borough Council** noted the Commission’s proposals but had no comments to make.

5.19 **Wrexham County Borough Council** noted the Commission’s proposals but had no comments to make.

5.20 **Bay of Colwyn Town Council** supported the Commission’s proposal with regard to the Unitary Authority of Conwy, i.e. “To change the boundary between the preserved counties of Clwyd and Gwynedd to include the whole of the unitary authority of Conwy within the preserved county of Clwyd”.

5.21 **Llandudno Town Council** supported the Commission’s proposal to include the whole of the unitary authority of Colwyn within the preserved county of Clwyd as they see this as a first step towards creating an area Lord Lieutenant.

5.22 **Rudry Community Council** considered that their community should be included in the preserved county of Gwent thereby ensuring that it joined the other parts of the Caerphilly Borough to make a viable entity. In doing so other minor aspects of local administration, lord lieutenants etc would remain in the borough thus avoiding expensive duplication.
5.23 **The Association of British Counties** disagreed with the Commission’s approach of bringing the boundaries of the preserved counties in line with local government areas since local government is not one of the functions of preserved counties. Rather, they believe that the Commission’s approach should be to determine the most suitable boundaries for the purposes for which the preserved counties exist, and pointed out an error in the Commission’s Guidance booklet. They considered that the areas of the preserved counties should be realigned with the 13 historic counties of Wales which would then be the basis for the Lieutenancy and Sheriffs’ areas of Wales together with other functions currently assigned to the preserved counties. This would have the advantage of being based on areas easily recognised and understood by the people of Wales whilst their historic and cultural significance would raise the profile and esteem of the offices of Lords Lieutenant and High Sheriffs. The Association’s representation is reproduced in full at Appendix 3 of this report.

5.24 **The Audit Commission** supported the Commission’s proposals to include the whole area of the unitary authority of Caerphilly within the preserved county of Gwent and the whole area of the unitary authority of Conwy within the preserved county of Clwyd.

5.25 **HM Land Registry** said they had no comments to make on the Commission’s proposals.

5.26 **Ordnance Survey** noted the Commission’s proposals but had no comments to make.

5.27 **Police Federation of England and Wales** said they had no objections to the Commission’s proposals and noted that some of the proposed changes would fall in line with existing police operational areas.

5.28 **Mark Isherwood, prospective Welsh Conservative Assembly Candidate for Delyn** wrote to support the Commission’s proposal that the whole of the unitary authority of Conwy be included in the preserved county of Clwyd. He considered Conwy had more affinity with Clwyd than Gwynedd.

5.29 **A resident of Abergavenny** considered that the area of Caerphilly should be included in the preserved county of Mid Glamorgan for the following reasons:

   i) The largest proportion of the electorate in Caerphilly is in Mid Glamorgan and therefore the disturbance cost would be less if the whole of Caerphilly were included in Mid Glamorgan rather than Gwent;
   
   ii) If Caerphilly were wholly within Gwent it would result in that preserved county being disproportionately large. The more sensible solution would therefore be to include Caerphilly within the preserved county of Mid Glamorgan; and
   
   iii) Caerphilly is historically linked to the Welsh Valleys, serving valleys industry with close links to Merthyr Tydfil, Bargoed and Rhondda Cynon Taff.

5.30 **A resident of Newport** considered that the Commission’s review should have been expanded to include consideration of reviving the 13 original counties in Wales which could then be used for the statutory functions currently carried out by the preserved counties.

5.31 The following pro forma letter was received from **six residents of Caerphilly**:  

*Proposal to move Caerphilly from Glamorgan into Gwent*
As a local resident I consider that Caerphilly should stay in its historic County of Glamorgan and I do not agree with your proposal to move it into Gwent.

I urge you to reconsider your proposal

6. ASSESSMENT

6.1 At the initial stage of this review we received representations that either questioned the purpose and continuing need for preserved counties or suggested alternative arrangements to those that currently exist. In our Draft Proposals report we stated that, under the terms of this review, this was not a question that may be considered by the Commission. We recognised however that it may be appropriate for this issue to be debated and we resolved to report the comments made to the National Assembly for Wales for their consideration.

6.2 Following the publication of our Draft Proposals report we have received further representations that refer to this issue. Conwy County Borough Council (5.11) Pembrokeshire County Council (5.15), Llandudno Town Council (5.21), the Association of British Councils (5.23) and a resident of Newport (5.30) have all indicated that they would wish to see changes to the areas or functions of the preserved counties. The Commission (and the National Assembly for Wales) are limited by the Act to making changes in the boundaries of the preserved counties. The reform or abolition of preserved counties is a matter for Parliament. We therefore draw to the attention of the National Assembly for Wales the calls which the Commission has received in the course of the representations process for a fundamental review of the Preserved Counties in Wales.

6.3 Section 54(1A) of the Act requires the Commission to make proposals ‘for effecting changes in the area of a preserved county which appear to the Commission to be desirable having regard, in particular, to the purposes for which preserved counties are retained’. These purposes are defined by the statutory provisions listed in Schedule 2 of the 1994 Act (Appendix 2). As pointed out in the representation by the Association of British Councils (appendix 3), a number of these provisions have either been superseded by subsequent legislation or have little bearing on a consideration of what the areas of preserved counties should be. Those purposes which still have relevance are the areas of the Lords Lieutenant in Wales, the areas of the High Sheriffs in Wales and the Schedule 2 (Rules for the Redistribution of Seats) within the Parliamentary Constituencies Act 1986 (as amended by the Local Government (Wales) Act 1994).

6.4 We have considered the representations made by the Lords Lieutenant (or their representatives on their behalf) of Gwynedd and Mid Glamorgan and, at the earlier stage of the review, of West Glamorgan who consider that the existing arrangements work satisfactorily. We also considered the representation from the Lord Lieutenant of Gwent received at the initial stage of the review who considered that the opportunity should be taken to remove the anomaly between unitary authority and preserved county boundaries in the Caerphilly area.

6.5 Although we have not received any representations making specific reference to the office of High Sheriff, we are of the view that the points made with regard to the office of Lord Lieutenant apply equally to the administration of the offices of High Sheriffs in Wales.
6.6 Throughout this review we have been made aware of the lack of general public awareness as to the nature of and areas covered by the preserved counties. We have found that only by making reference to the principal council areas has a degree of understanding of the boundaries of the preserved counties been achieved. We consider that even though the present pattern of local government administration arrangements have only been in place since 1996, the widespread use of illustrative mapping by the councils and the media have resulted in a general awareness of the principal council areas. We consider that there are benefits to be gained in the administration of preserved counties if the area of the preserved county can be readily identified. We consider that this can be best achieved by linking the areas of the preserved counties to the ‘known’ areas of the principal councils.

6.7 We have considered the representations that referred to the effect of changes to the preserved county boundaries on the parliamentary constituencies. In conducting a review of the parliamentary constituencies in Wales, the Boundary Commission for Wales are required to give effect to the rules set out in Schedule 2 of the Parliamentary Constituencies Act 1986. Rule 4(1)(a)(i) states ‘no county or any part of a county shall be included in a constituency which includes the whole or part of any other county….’. This rule was amended by the Local Government Act (Wales) 1994 to substitute the term preserved county for county in Wales. This rule in effect means that constituencies should not cross preserved county boundaries. In considering the reasons why the preserved counties were retained for this purpose in Wales, as opposed to using counties as in England, one needs to consider the fact that the electorates of the counties in England are, in general, much higher than the counties of Wales. This allows the Boundary Commission for Wales a much greater degree of flexibility, in creating constituencies that are close to the electoral quota, than would be possible using the smaller county units.

6.8 The table below shows, for the preserved counties of Clwyd, Gwynedd, Gwent and Mid Glamorgan, the existing number of parliamentary constituencies and the theoretical entitlement (based on the 2002 electoral figures). The table also shows the theoretical entitlement for those preserved counties if our Draft Proposals were to be implemented.

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<th>Existing Arrangements</th>
<th>Proposed Theoretical Entitlement</th>
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<td>Seats</td>
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<td>Theoretical Entitlement</td>
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<tr>
<td>Clwyd</td>
<td>6</td>
<td>5.80</td>
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<tr>
<td>Gwynedd</td>
<td>4</td>
<td>3.37</td>
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<tr>
<td>Gwent</td>
<td>6</td>
<td>6.17</td>
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<td>Mid Glamorgan</td>
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6.9 It is apparent from the table that, under our Draft Proposals, a strict application of Rule 4(1)(a)(i) by the Boundary Commission for Wales in their next review would result in a significant reorganisation of the constituencies within these areas and the likelihood that constituencies would be created that are further from the electoral quota than the existing arrangements. It should be noted however that part (1) of Rule 4 states ‘So far as is practicable having regard to rules 1 to 3A’, so it would appear that the Boundary Commission does have some flexibility here. The Boundary Commission for England has used this flexibility (as it applies to Rule 4(1)(a)(ii)) by ‘pairing’ London Boroughs where otherwise there would be a significant imbalance between the constituency electorates. It will be for the Boundary Commission for Wales to decide on the approach they take to this issue during the next general review of parliamentary constituencies.
In terms of this particular purpose for which the preserved counties are being retained, our Draft Proposals are perfectly compatible with the determination of parliamentary constituencies by the Boundary Commission for Wales.

In our Draft Proposals report and at 6.6 above, we have considered the relationship between preserved county and unitary authority boundaries and have taken note of the comments made in respect of this relationship in the representations received. For the reasons given at 6.6 above, we remain of the view that, wherever possible, preserved county boundaries should be aligned with unitary authority boundaries as this has benefits in terms of the identification and administration of preserved counties.

The boundaries of the preserved counties follow the boundaries of the unitary authorities with two major and two minor exceptions. The two major exceptions are in North Wales where the boundary between the preserved counties of Clwyd and Gwynedd divide the unitary authority of Conwy and in South Wales where the boundary between the preserved counties of Gwent and Mid Glamorgan divide the unitary authority of Caerphilly. A minor change to the boundary between the County Borough of Blaenau Gwent and the County Borough Caerphilly in the area of Tafarnau Bach Industrial Estate was made by The Blaenau Gwent and Caerphilly (Tredegar and Rhymney) Order 2002 No. 651 (W.68) which came into force on 6th April 2002. This Order did not make a consequential change to the boundary between the preserved counties of Gwent and Mid Glamorgan and therefore an anomaly exists. A minor change to the boundary between the County Borough of Rhondda Cynon Taff and the County Borough of The Vale of Glamorgan in the area of Llanharry and Penllwyn was made by The Rhondda Cynon Taff and Vale of Glamorgan (Llanharry, Pont-y-clun, Penllwyn, Welsh St Donats and Pendoylan) Order 2002 No. 654 (W.70). This Order, which came into force on 6th April 2002, did not make a consequential change to the boundary between the preserved counties of Mid Glamorgan and South Glamorgan creating a minor anomaly between the preserved county and unitary authority boundaries.

No representations have been received in respect of anomalies due to the boundaries of the preserved county of Dyfed.

With the exception of the minor anomaly identified at 6.12 above, no difficulties arising from the boundary between the preserved counties of Mid Glamorgan and South Glamorgan have been reported. We therefore propose a change to the boundary between the preserved counties of Mid Glamorgan and South Glamorgan to bring it in line with the boundary between the County Borough of Rhondda Cynon Taff and the County Borough of The Vale of Glamorgan following the Order which came into force in April 2002 (a map showing the amendment can be seen at Appendix 5).

In our Draft Proposals report we considered the representation from the Conservative Group in the National Assembly for Wales who suggested that the Community of Ystradgynlais be transferred from the preserved county of Powys to the preserved county of West Glamorgan. We noted that others who have an interest in this area consider that the existing boundaries work satisfactorily and we were not aware of any sound reasons justifying the proposed change. We considered that there should be no change to the boundaries of the preserved counties of Powys and West Glamorgan and not having received any further representations concerning this area, we remain of this view.
In our Draft Proposals report we noted that a number of the representations we received referred to the anomaly where the boundary between the preserved counties of Clwyd and Gwynedd divides the unitary authority of Conwy. In their initial representations summarised in our Draft Proposals report, Denbighshire County Council (paragraph 4.21), Gwynedd County Council (paragraph 4.22) and the Isle of Anglesey County Council (paragraph 4.15) stated that they were not aware of any difficulties arising from the present boundaries. Gwynedd County Council did not support a change but, if a change were to be considered, they would prefer that the part of Conwy currently within the preserved county of Clwyd should be included within the preserved county of Gwynedd. The initial representations from William Graham AM (paragraph 4.10), The Welsh Conservative Party (paragraph 4.14), Conwy Conservative Association (paragraph 4.15) and The Audit Commission (paragraph 4.29) summarised in our Draft Proposals report, supported the view that the boundary between the preserved counties of Clwyd and Gwynedd be changed so as to include the whole of the unitary authority of Conwy within the preserved county of Clwyd.

In considering our Draft Proposals, we took the view that, wherever possible, preserved county boundaries should be aligned with unitary authority boundaries. We therefore considered changing the boundary between Clwyd and Gwynedd to include the whole of the Conwy unitary authority within one or other of the preserved counties. We considered Gwynedd County Council’s suggestion to include Conwy within the Gwynedd preserved county but we had no evidence that this would be desirable having regard, in particular, to the purposes for which the preserved counties are retained. The representations in favour of including Conwy within the preserved county of Clwyd pointed to the affinity that the part of Conwy currently within the preserved county of Gwynedd has with areas of Clwyd. We noted that the Conwy & Denbighshire NHS Trust covers the whole area of the two unitary authorities and considered that this evidenced the close links between the two. We considered therefore, that it would benefit in terms of the identification and administration of the two preserved counties for the whole of the unitary authority of Conwy to be included within the preserved county of Clwyd.

We have considered objections against this proposal from the Lord Lieutenant of Gwynedd, Gwynedd County Council and the Association of British Councils and support for the proposal from The Welsh Conservative Party, North Wales Conservatives, Conwy County Borough Council, Bay of Colwyn Town Council, Llandudno Town Council, The Audit Commission and the prospective Welsh Conservative Assembly candidate for Delyn. We also noted that the Police Federation of England and Wales had no objection to the proposal. The objectors considered that Conwy has historic and contemporaneous links with Gwynedd rather than areas within the preserved county of Clwyd, they pointed to the resultant population imbalance and the implications for parliamentary seats. Those who supported the proposal considered that the part of Conwy currently within the preserved county of Gwynedd has an affinity with the rest of the preserved county of Clwyd. In relation to the areas administered by the offices of the Lord Lieutenant and the High Sheriff, for the reasons given at 6.6 above, we consider that it would be of benefit for the boundary between the preserved counties of Clwyd and Gwynedd to be changed so as to include the whole of the principal council of Conwy wholly within one preserved county area. Following consideration of the further representations we have received following the publication of our Draft Proposals report we remain of the view that the greater community of interest lies between Conwy and the preserved county of Clwyd. In terms of the implications for the parliamentary constituencies we have considered this matter earlier (at 6.10) and have concluded that the proposed change need not necessarily have an impact on
the parliamentary constituencies. We confirm therefore our earlier view, that it would benefit in terms of the identification and administration of the two preserved counties for the whole of the unitary authority of Conwy to be included within the preserved county of Clwyd.

6.19 A number of the representations we received referred to the anomaly where the boundary between the preserved counties of Gwent and Mid Glamorgan divides the unitary authority of Caerphilly. At the initial stage of the review, the Lord Lieutenant of Mid Glamorgan and Merthyr Tydfil County Borough Council considered that the present boundaries had not given rise to any special problems. William Graham AM and The Welsh Conservative Party suggested that the whole of the Caerphilly unitary authority should be included within the preserved county of Mid Glamorgan. The representations from Paul Murphy MP, Don Touhig MP, Caerphilly County Borough Council, Monmouthshire County Council, The Audit Commission and Gwent Police Authority however suggested that the whole of the unitary authority of Caerphilly be included within the preserved county of Gwent.

6.20 In our Draft Proposals report we considered the proposal to change the boundary between Gwent and Mid Glamorgan to include the whole of Caerphilly unitary authority within one or other of the preserved counties. We noted the argument made by The Welsh Conservative Party that with 61% of the electorate of Caerphilly in Mid Glamorgan and only 39% in Gwent, there would be less disruption caused by including Caerphilly within the preserved county of Mid Glamorgan. They argued that including Caerphilly within Gwent would mean that Gwent would have the largest population of all the preserved counties and would cover a much larger area than the other four South Wales preserved counties. We also noted the argument that, as part of the unitary authority of Caerphilly is within the Merthyr Tydfil and Rhymney parliamentary constituency, this evidences the links Caerphilly has with the Merthyr area. Whilst we accepted that the Rhymney area may have an affinity with Merthyr Tyfdil, we considered however, that the Rhymney area had an equally strong affinity with the Tredegar and Ebbw Vale areas that are within the preserved county of Gwent.

6.21 The initial representations in favour of including Caerphilly within the preserved county of Gwent pointed to the fact that the Gwent police and health authorities have had their boundaries changed to include the whole of the unitary authority of Caerphilly within their jurisdiction. We considered that this, and the fact that Caerphilly County Borough Council supported inclusion within Gwent, was evidence that there currently exist very strong links between the area covered by the Caerphilly unitary authority and those areas within the preserved county of Gwent. We considered therefore, that, having regard to the purposes for which the preserved counties are retained, it would be of benefit to change the boundary between the preserved counties of Gwent and Mid Glamorgan so that the whole of the unitary authority of Caerphilly is included within the preserved county of Gwent.

6.22 Following the publication of our Draft Proposals report we have received a number of representations in regard to the proposal to include Caerphilly within the preserved county of Gwent. In addition to those following up on their initial representations we have received representations from David Davies AM, The Association of British Councils, a resident of Abergavenny, a resident of Newport and six residents of Caerphilly who were against the proposal and Newport County Borough Council and Rudry Community Council who supported the proposal and the Police Federation for England and Wales who had no objections to the proposal. The objectors considered that the proposal would create a
preserved county of Gwent that would be disproportionately large in both area and population, it would have implications for the parliamentary constituencies and that Caerphilly is more closely linked to other areas of Mid Glamorgan than Gwent. We have noted the differing population sizes and areas of the existing preserved counties and have received no evidence to suggest that these are significant factors in the consideration of the administrative arrangements of the offices of the Lord Lieutenant and High Sheriff. A change in the number of electors may however have an impact on the parliamentary constituencies but, as we have explained (at 6.10), this is a matter for consideration by the Boundary Commission for Wales. In terms of the links that Caerphilly has with other areas of either Gwent or Mid Glamorgan, we have considered all of the representations we have received on this issue during the review and have concluded that the more compelling evidence would suggest that the stronger ties are with areas within the existing preserved county of Gwent. In reaching our conclusion we made particular note that our proposal was supported by Caerphilly County Borough Council. We therefore confirm our Draft Proposals statement, that, having regard to the purposes for which the preserved counties are retained, it would be of benefit to change the boundary between the preserved counties of Gwent and Mid Glamorgan so that the whole of the unitary authority of Caerphilly is included within the preserved county of Gwent.

6.23 Our proposal for the whole of the unitary authority of Caerphilly to be included within the preserved county of Gwent means that the anomaly between preserved county and unitary authority boundaries caused by the minor change to the boundary between the County Borough of Blaenau Gwent and the County Borough Caerphilly in the area of Tafarnaubach Industrial Estate discussed at 6.12 above would then not need to be considered.

7. PROPOSALS

7.1 As considered at 6.12 above, we propose a minor change to the boundary between the preserved counties of Mid Glamorgan and South Glamorgan to reflect the recent change to the boundary between the County Borough of Rhondda Cynon Taff and the County Borough of The Vale of Glamorgan.

7.2 For the reasons given at 6.18 above, we propose a change to the boundary between the preserved counties of Clwyd and Gwynedd to include whole of the unitary authority of Conwy within the preserved county of Clwyd.

7.3 For the reasons given at 6.22 above, we propose a change to the boundary between the preserved counties of Gwent and Mid Glamorgan to include whole of the unitary authority of Caerphilly within the preserved county of Gwent.

8. ACKNOWLEDGEMENTS

8.1 We wish to express our gratitude to all bodies and persons who made representations to us.
9. RESPONSES TO THIS REPORT

9.1 Having completed our review of the boundaries of the preserved counties and submitted our recommendations to the National Assembly for Wales, we have fulfilled our statutory obligation under the directions issued by the National Assembly for Wales.

9.2 It now falls to the National Assembly for Wales, if it thinks fit, to implement them with or without modifications by means of an Order or to direct the Commission to conduct a further review. Such an Order will not be made earlier than a period of six weeks from the date that the Commission’s recommendations are submitted to the National Assembly for Wales.

9.3 Any further representations concerning the matters in the report should be addressed to the National Assembly for Wales. They should be made as soon as possible, and in any event not later than six weeks from the date that the Commission’s recommendations are submitted to the National Assembly for Wales. Representations should be addressed to:

   Local Government Modernisation 2 Division
   National Assembly for Wales
   Cathays Park
   Cardiff
   CF10 3NQ

MRS S G SMITH LLB (Chair)

J E DAVIES ICSA IPFA (Deputy Chair)

D H ROBERTS BSc DMS MBCS MCMI (Member)

E H LEWIS BSc. DPM FRSA FCIPD (Secretary)

November 2002
# The Preserved Counties And Their Areas

The Local Government (Wales) Act 1994 defined the areas of the preserved counties as follows:

<table>
<thead>
<tr>
<th>Name</th>
<th>Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clwyd</td>
<td>The county of Clwyd, but excluding the communities of Llanrhiaeadr-ym-Mochnant, Llansilin and Llangedwyn.</td>
</tr>
<tr>
<td>Dyfed</td>
<td>The county of Dyfed.</td>
</tr>
<tr>
<td>Gwent</td>
<td>The county of Gwent.</td>
</tr>
<tr>
<td>Gwynedd</td>
<td>The county of Gwynedd.</td>
</tr>
<tr>
<td>Mid Glamorgan*</td>
<td>The county of Mid Glamorgan, but excluding the communities of Wick, St Bride's Major, Ewenny and Pentyrch.</td>
</tr>
<tr>
<td>Morgannwg Ganol</td>
<td>The county of Powys with the addition of the communities of Llanrhiaeadr-ym-Mochnant, Llansilin and Llangedwyn from the county of Clwyd.</td>
</tr>
<tr>
<td>Powys</td>
<td>The county of Powys with the addition of the communities of Llanrhiaeadr-ym-Mochnant, Llansilin and Llangedwyn from the county of Clwyd.</td>
</tr>
<tr>
<td>South Glamorgan*</td>
<td>The county of South Glamorgan with the addition of the communities of Wick, St Bride's Major, Ewenny and Pentyrch from the county of Mid Glamorgan.</td>
</tr>
<tr>
<td>De Morgannwg</td>
<td>The county of West Glamorgan.</td>
</tr>
<tr>
<td>West Glamorgan</td>
<td>The county of West Glamorgan.</td>
</tr>
<tr>
<td>Gorllewin Morgannwg</td>
<td>The county of West Glamorgan.</td>
</tr>
</tbody>
</table>

* The boundary between the preserved counties of Mid Glamorgan and South Glamorgan was amended by The Bridgend and The Vale of Glamorgan (Areas) Order 1996.
PROVISIONS APPLYING TO PRESERVEDCounties

1. The Lieutenancies Act 1997

A Lord-Lieutenant is appointed by the Crown for each county in England, each county in Wales and each area in Scotland. The counties in Wales for the purposes of the 1997 Act are the preserved counties. The Lord-Lieutenant acts as the Queen’s representative who manages the Queen’s civic affairs and arranges royal visits.

2. The Sheriffs Act 1887

The Act provides for the appointment of Sheriffs (known when appointed for a county as High Sheriffs) to carry out certain functions to do with the administration of justice, as well as ceremonial functions. The counties in Wales for the purposes of the annual appointment of a Sheriff are the preserved counties.

3. The Defence Act 1842

In Section 19 of the Defence Act 1842 (valuing of premises in default of agreement) and in Sections 23 and 24, “county” in relation to Wales means a preserved county.

4. The Licensing Act 1964

In Section 85 (parties organised for gain), 188 (closing of licensed premises in case of riot) and 193 (disqualification of justices) of the Licensing Act 1964, “county” in relation to Wales means a preserved county.

5. The Sea Fisheries (Shellfish) Act 1967

In Section 10 of the Sea Fisheries (Shellfish) Act 1967 (jurisdiction in relation to fishery) in relation to Wales, the reference to a county includes a reference to a preserved county.

6. The Interpretation Act 1978

In Schedule 1 to the Interpretation Act 1978 (words and expressions defined), “Wales” is defined as ‘the combined area of the counties which were created by Section 20 of the Local Government Act 1972, as originally enacted, but subject to any alteration made under Section 73 of that Act (consequential alteration of boundary following alteration of watercourse).’

7. The Justices of the Peace Act 1979

In Section 1 of the Justices of the Peace Act 1979 (commission areas), Section 4 of that Act (petty sessions areas) and Section 19 of that Act (general provisions as to magistrates’ courts committees), references to counties are in relation to Wales references to preserved counties.

8. The Magistrates’ Courts Act 1980

In Section 1 (issue of summons to accused or warrant for his arrest), Section 2 (jurisdiction to deal with charges) and Section 3 (offences committed on boundaries etc.) of the Magistrates’ Courts Act 1980, references to counties are in relation to Wales references to preserved counties.
9. **The Representation of the People Act 1983**

In the provisions of section 177 of the Representation of the People Act 1983 (local election offence punishable summarily), “county” in relation to Wales means a preserved county. In Schedule 1 to that Act (parliamentary election rules), in the Appendix, in the entry relating to the form of the certificate to be endorsed on the writ, in relation to any constituency in Wales “county” in this form refers to a preserved county.

10. **The Parliamentary Constituencies Act 1986**

In paragraph 4 sub-paragraph (1)(a) of Schedule 2 to the Parliamentary Constituencies Act 1986 (rules for redistributing seats), “county” means in relation to Wales a preserved county.


Sub-section (1A) of Section 54 of this Act (proposals for changes in local government areas in Wales) provides “The Welsh Commission may, in consequence of a review conducted by them under this Part of this Act make proposals to the National Assembly for Wales for effecting changes in the area of a preserved county which appear to the Commission to be desirable having regard, in particular, to the purposes for which the preserved counties are retained.’’

Section 56(1) of this Act (power of the National Assembly for Wales to direct holding of reviews) provides:

“(1) The National Assembly for Wales may direct the Welsh Commission to conduct a review of-

(a) Wales as a whole,

(b) any one or more local government areas or parts of such areas in Wales, or

(c) any one or more preserved counties or parts of such counties,

for the purpose of considering whether or not to make such proposals in relation to the area reviewed as are authorised by section 54 above and what proposals, if any, to make; and the Commission shall, if they think fit, formulate such proposals accordingly.”

In Section 224 of this Act (arrangements by principal councils for custody of documents) “county”, in relation to Wales, means a preserved county.

In Section 269 of this Act (meaning of “England” and “Wales”), “Wales” means the combined area of the preserved counties and “England” does not include any area which is included in any of the preserved counties.
Association of British Councils

0. Executive Summary

0.1 On 11 March 2002, the National Assembly for Wales directed the Local Government Boundary Commission for Wales to conduct a review of the boundaries of the preserved counties of Wales. In July 2002 the Commission published its Draft Proposals. These propose that amendments be made to the boundaries of the preserved counties with the aim of aligning them with those of local government, so that the preserved counties would effectively be composed of combinations of unitary authority areas. This document presents the response of the Association of British Counties (ABC) to the Commission's Draft Proposals.

0.2 ABC disagrees with the Commission's Draft Proposals and with the general approach taken by the Commission of seeking to align the preserved county boundaries with those of local government. Local government is not one of the functions of the preserved counties. ABC does not accept that there are any significant benefits (in terms of the identification and administration of preserved counties) in aligning the boundaries of the preserved counties with those of local government. The main purpose of the preserved counties is as the basis for the Lieutenancy and Sheriffs' areas of Wales. The central issue to be addressed by the review should be what set of areas would be most appropriate for these offices.

0.3 ABC believes that the 13 historic Counties of Wales are an important part of the history, geography and cultural life of the nation. ABC promotes their use as a basis for sporting, social and cultural activities and as a fixed general-purpose geography for Wales. ABC considers that certain aspects of the local government legislation of 1972 and 1994 have undermined the identities of the 13 historic Counties. Prime among these was the removal of the ceremonial offices of Sheriff and Lord-Lieutenant from the historic Counties (on which they had been based for centuries) and the basing of them on the new local government areas created in 1974.

0.4 ABC, therefore, proposes that the areas of the preserved counties be re-aligned with those of the 13 historic Counties of Wales. This would have several advantages:

1. There are practical advantages in terms of the identification and administration of the offices of Lord-Lieutenant and Sheriff from basing thin, one that is fixed and generally understood by the people of Wales. Historical precedence and the important constitutional positions of the Lord-Lieutenants and Sheriffs dictate that they should be appointed to areas of historic and cultural significance. Basing them on the historic Counties would raise the profile of these officers and the esteem in which they are held.

2. A return of the offices of Lord-Lieutenant and Sheriff to the historic Counties would be an appropriate official recognition of the importance of the historic Counties as a vital element of the national life.

3. Since the areas of the Lord-Lieutenants and Sheriffs have conventionally assumed a more general role in popular geography, a return of these officers, to the historic Counties will encourage the use of the historic Counties as a fixed general-purpose geography for Wales.
0.5 Some of the advantages of ABC's proposal could be obtained by re-aligning the present 8 preserved counties with groups of historic Counties. Such a system would be based to some extent upon the historic Counties and could remain fixed throughout future local government change. Deputy Lieutenants could be appointed to cover each historic County within a preserved county.

0.6 The Lieutenancy areas of Scotland and Northern Ireland are unrelated to local government areas. Many are closely based upon an historic County. This bestows prestige and dignity on the office and is a proper recognition of the continuing importance of the historic Counties to the people of these countries. We urge the Commission to recommend a similar system for Wales.
1. **Introduction**

1.1 On 11 March 2002 the National Assembly for Wales directed the Local Government Boundary Commission for Wales (henceforth "the Commission") to conduct a review of the boundaries of the preserved counties of Wales. In July 2002 the Commission produced a report laying out its Draft Proposals. The Commission is currently seeking representations in response to its Draft Proposals report.

1.2 This document presents the response of the Association of British Counties (ABC) to the Draft Proposals report.

1.3 We disagree with the Commission's approach of trying to bring the boundaries of the preserved counties in line with those of other forms of administration (i.e. of local government, the police service, the health service). Rather, we believe that the Commission's approach should be to determine what are the most suitable boundaries for the administrative purposes for which the preserved counties exist. The main purpose of the preserved counties is to form the areas to which the Lord Lieutenants and Sheriffs of Wales are appointed. We consider that the 13 historic (or traditional) Counties of Wales should be used as the geographical framework for these particular forms of administration, as they were nearly 500 years up to 1974. We are, therefore, proposing that the preserved counties be aligned with the 13 historic Counties.

1.4 In Section 2 of this report we provide some background information necessary to provide a context to our comments on the Draft Proposals report: we discuss the history of the traditional Counties and their important role in the national life; we provide a brief history of local government in Wales from 1888 until the present; we then describe the nature and purpose of the preserved counties; we also discuss the current problem of "geographical confusion" as it relates to Wales. In Section 3 we discuss the terms of reference of the review. In Section 4 we present our views of the Commission's Draft Proposals. In Section 5 we discuss the advantages of our alternative proposal for the preserved counties, Section 6 presents some concluding remarks.

![Map 1. The 13 historic (or traditional) Counties of Wales.](image)
2. Background

The 13 historic (or traditional) Counties of Wales

2.1 Map 1 shows the 13 historic (or traditional) Counties of Wales. The areas of the Counties are still essentially those established by the Laws in Wales Act 1535. This Act abolished the powers of the lordships of the March and established the Counties of Denbighshire, Montgomeryshire, Radnorshire, Brecknockshire and Monmouthshire from the areas of the former lordships. The other 8 Counties had, by then, already been in existence since at least the 13th century, although the Act of 1535 added further lands to several of these. Whilst (unlike many of the English shires) the Counties of Wales are not true folk areas, they were generally composed from older Welsh kingdoms or the traditional divisions of these kingdoms (the cantrefs and commotes). As the renowned historian William Rees says, in his "Historical Atlas of Wales":
"... the boundaries of the modern shires have largely been determined by the ancient divisions of the country. The survival of these ancient local divisions within the pattern of historical change constitutes a vital element in the framework of the national life and helps to preserve its continuity."

2.2 Their origins in the older Welsh divisions and their great ages have made the historic Counties an indelible part of the history, geography and cultural life of the nation. The importance of the Counties lies in fields outside of local government. Their names and areas are widely used in tourism, sport, business, record keeping, local and family history, in literature and the arts. They are sources of identity and affection to many people. Organisations galore - sports clubs, businesses, societies, agricultural associations, farmers' unions etc. - are based upon them. Above all else the historic Counties are places - places where people live and are proud to "come from", where they "belong".

2.3 But the historic Counties also give us something else. Like every country Wales needs a stable geography - a set of commonly accepted names and areas for communication between people in all walks of life: business, education, tourism, the media etc. For nearly 500 years the Counties have provided this geography. To know which County a particular village, town or city is in is literally to know "where it is". The historic Counties still form a popular geographical framework more widely recognised than that provided by modern local government. The Encyclopaedia Britannica, the Gazetteer of British Place Names and the National Gazetteer of Wales list each place in Wales by reference to its historic County as well as its current local government area. The Counties are referred to countless times a day in everyday speech throughout Wales. Media references to the historic Counties abound in news reports, weather reports, sports commentaries, dramas, documentaries etc. The historic Counties of Wales are an acceptable part of all UK postal addresses and included in the Royal Mail's Postcode Address File.

A brief history of local government in Wales

2.4 Prior to 1888, there was no confusion as what a County was or which County a particular town or village was in. The precise boundaries of the Counties of Wales were determined and mapped by the Ordnance Survey (OS) between 1860 and 1888, during its
first full survey of England and Wales. The 1:2500 and 1:10560 "first edition" maps that resulted from this survey provide the definitive record of the boundaries of the 13 Counties of Wales. Numerous Acts of Parliament used the Counties as the geographical framework for various administrative functions (e.g. lord lieutenants, sheriffs, parliamentary seats etc.).

2.5 The era of modern local government began with the Local Government Act 1888 (LGA 1888). Whereas previous Acts had directly utilised the historic Counties for administrative purposes, this Act created a whole new set of statutorily defined administrative areas in England and Wales, terming them "administrative counties" and "county boroughs". Each administrative county was to have an elected "county council" which was given certain administrative duties. The Local Government Act 1896 created a set of rural and urban district councils within each administrative county and, thus, the familiar two-tier system of elected local government was created.

2.6 Thirteen administrative counties were created in Wales, each bearing the name of one of the 13 historic Counties. Each administrative county of Wales was deemed by the LGA 1888 to have the same boundaries as the historic County whose name it borrowed except that:
(i) the boroughs of Cardiff and Swansea were deemed to be "county boroughs" and to not lie in any administrative county. The county borough council was to be responsible for all local government functions in these areas.
(ii) Urban sanitary districts were not permitted to cross administrative county boundaries. The Ebbw Vale Urban Sanitary District, which lay partly in the historic County of Monmouthshire and partly in Brecknockshire, was deemed to lie wholly in the administrative county of Monmouthshire (Rassau, Dukestown, Beaufort, Brynmawr, Clydach and Gilwern being the settlements affected).

2.7 The new administrative areas also became the basis for the definition of the areas of the ceremonial offices of Lord-Lieutenants and Sheriffs. The LGA 1888 appointed these offices to the combined area of an administrative county with associated county boroughs. Hence the lord lieutenant of Glamorgan had jurisdiction over the combined area of the administrative county of Glamorgan and the county boroughs of Cardiff and Swansea.

2.8 The LGA 1888 did not abolish or alter the historic Counties themselves. The General Register Office's Census Report of 1891 carefully distinguished between what it dubbed the "Ancient or Geographical Counties" and the new "administrative counties". It made it clear that the two were distinct entities and that the former still existed. No subsequent Act has ever tried to alter or abolish the historic Counties; their continued existence has been consistently reaffirmed by the Government.

2.9 Following the LGA 1888, the OS began to denote the areas of the Lord-Lieutenants and Sheriffs under the label "county" on its "second edition" maps. After 1945, OS adopted its own term "geographical county" to denote the lieutenancy areas. The OS's "geographical counties" were, of course, very close matches to the historic Counties (the only significant difference in Wales being the Brynmawr-Gilwern area).

2.10 Major local government change throughout Wales was created by the Local Government Act 1972. The LGA 1972 explicitly abolished all of the administrative counties and county boroughs of Wales created by the LGA 1888 and created a whole new set of local government areas. To quote from the LGA 1972:
"20(1) For the administration of local government on and after 1st April 1974 Wales shall be divided into local government areas to be known as counties and in those counties there shall be local government areas to be known as districts."

2.11 A major fault of this Act was the unqualified use of the word "county" (rather than the LGA 1888's "administrative county") to describe its top-tier local government areas. The unqualified use of this word has contributed much to the false perception that these areas were not just for administration but were also intended as a replacement for the historic Counties in a broader cultural and a geographical sense. In fact, whilst the LGA 1972 explicitly abolished all the administrative counties it said nothing about the historic Counties. The Government confirmed that this was because these were unaffected by the Act: "The new county boundaries are solely for the purpose of defining areas of ...local government. They are administrative areas, and will not alter the traditional boundaries of counties, nor is it intended that the loyalties of people living in them will change." DoE Statement 1st April 1974

2.12 The most significant aspect of the LGA 1972 for the historic Counties was the fact that the Act tied the areas of the ceremonial offices of Sheriffs and Lord-Lieutenants to the new local government "counties". As noted above, since their creation these offices had been either based directly on the historic Counties or (from 1889-1974) on areas very close to those of the historic Counties.

2.13 Whilst the LGA 1972 did not directly affect the historic Counties, indirectly it has had a detrimental effect on their identities and their role in the national life. The administrative counties and, more particularly, the ceremonial areas of the LGA 1888 had been closely based upon the historic Counties. In contrast, the LGA 1972's "counties" in Wales (i.e. Clwyd, Dyfed, Gwent, Mid-Glamorgan, South Glamorgan, West Glamorgan, Powys, Gwynedd) were radically different from the historic Counties (see Map 2). The OS began to mark the new areas by the unqualified label "county" on its maps. Other publishers of maps and guidebooks followed suit. The new councils erected road-signs marking the boundaries of their areas and took down most of the road signs showing the boundaries of the historic Counties. The Post Office even amended its "postal counties" to reflect the new local government areas (a policy now abandoned).
2.14 Whilst publishers, the media etc. may have adopted the LGA 1972's "counties", many people were unhappy with the new areas. Their discontent sprang from the perception that these new areas had replaced a cherished historic County. Whilst technically the historic Counties continue to exist, this existence has been significantly obscured by the prominence that the new local government "counties" assumed. Partly as a result of this, the new county councils never managed to obtain the level of public support necessary to ensure their long-term survival.

Map 2. The "counties" of the LGA 1972 as originally enacted (reproduced from Ordnance Survey map data by permission of the Ordnance Survey).
2.15 The current local government structure of Wales is that produced by the Local Government (Wales) Act 1994 (henceforth "the LG(W)A 1994"). Given that part of the impetus for local government reform was public unhappiness with the "counties" of the 1972 Act, it was suggested by ABC that this legislation should provide a way of giving proper recognition to the 13 historic Counties. The obvious way would have been to restore the ceremonial offices of Sheriffs and Lord Lieutenants to the historic Counties. Since the Government was set on creating a set of unitary local authorities in Wales, these local government areas could have simply been labeled "districts" or "boroughs". In this way, the historic Counties and modern local government could have happily co-existed, each fulfilling its own important role in modern Wales. Instead of this, the LG(W)A 1994 managed to make things even more confusing than they had been before.

Map 3. The present local government "principal areas" of Wales (reproduced from Ordnance Survey map data by permission of the Ordnance Survey).
2.16 The LG(W)A 1994 abolished all of the "counties" and "districts" created by the LGA 1972 (as originally enacted) and, by amending the LGA 1972, created a set of local government areas described by Section 20(1) of the amended LGA 1972 as the "new principal areas". Service provision within each "principal area" is the responsibility of a "principal council". This part of the legislation is clear and sensible. However, the subsequent parts have created great confusion in three main ways:

1. Section 20(4) of the amended LGA 1972 describes 11 of the "principal areas" as "counties" and 11 as "county boroughs", despite all 22 areas being identical in every practical aspect of the Act.

2. Section 21 of the amended LGA 1972 enables some of the councils to adopt the style "county council" and others the style "county borough council". Alternatively, all principal councils can be known simply as "council". Hence a diversity of terminology can be encountered for what are equivalent bodies (e.g. "Caerphilly County Borough Council", "Gwynedd Council", "Denbighshire County Council" and, most extraordinarily, "The County Council of the City and County of Cardiff").

3. Several of the principal councils were given or have adopted the name of one of the 13 historic Counties of Wales. The principal areas of "Pembrokeshire", "Carmarthenshire", "Anglesey" and "Ceredigion" are almost identical to the historic Counties of these names. However, the principal areas presently called "Flintshire" and "Monmouthshire" only cover a part of the historic Counties of these names. The principal area called "Denbighshire" only covers about half of the historic County of Denbighshire, but also covers a significant part of the historic County of Flintshire (including Prestatyn, Rhyl and St. Asaph) and part of the historic County of Merioneth (including Corwen).

2.17 Despite these confusing measures, the Government once again issued a re-assurance that the changes were restricted to local government: no changes were being made to the historic Counties:
"The local government changes of 1996 are designed to enhance the delivery of local government services to local people, and will not alter or undermine peoples' loyalties to the traditional county in which they live." Welsh Office Statement 27 November 1995

The nature and purposes of the preserved counties

2.18 Sadly the confusion created by the LG(W)A 1994 did not stop with its unfortunate terminology for local government areas. As ABC suggested, the Act did create a system whereby the ceremonial offices of Lord-Lieutenant and Sheriff are separated from local government areas. However, to ABC's consternation, rather than returning these offices to the historic Counties, the Act left them attached to the areas of the 8 "counties" of the LGA 1972 as originally enacted. It did this by creating the concept of the "preserved county". The term "preserved county" is defined by Section 270(1) of the amended LGA 1972 thus:
" "preserved county" means any county created by this Act as a county in Wales, as that county stood immediately before the passing of the Local Government (Wales) Act 1994 but subject to any provision of the Act 91'1994, or any provision made under this Act, redrawing its boundaries." 

2.19 The areas of the preserved counties are set out in Part III of Schedule 4 of the amended LGA 1972. The preserved counties of Dyfed, Gwent, Gwynedd and West
Glamorgan are identical to the areas of the "counties" of the LGA 1972 as they existed immediately before the passing of the LG(W)A 1994. The preserved counties of Clwyd, Powys, South Glamorgan and Mid Glamorgan differ slightly from the areas of the "counties" of the LGA 1972 as they existed immediately before the passing of the LG(W)A 1994: several communities lie in the preserved county of Clwyd which had lain in the "county" of Powys; and several communities lie in the preserved county of South Glamorgan which had lain in the "county" of Mid Glamorgan.

2.20 The LG(W)A 1994 also established the purposes for which the preserved counties were to be the relevant areas. Section 61 established them as the basis of the Lieutenancies of Wales. Section 62 established them as the basis of the Sheriffs' areas. Schedule 2 provided for the application of certain other miscellaneous enactments in relation to the preserved counties. Further legislation has superceded some of the provisions made by the LG(W)A 1994. In Appendix A we review those areas of legislation which were relevant at the time of the passing of the LG(W)A 1994 and highlight those types of administration for which the preserved counties are still relevant. We conclude that the only major forms of public administration for which the preserved counties are still relevant are the offices of Lord-Lieutenant and Sheriff.

2.21 The office of Lord-Lieutenant was created in 1547 to take control over the military forces of the Crown in the County. During the reign of William and Mary the office of Lord Lieutenant was combined with the older office of Custos Rotulorum (Keeper of the Rolls). The Custos Rotulorum was the Justice of the Peace who was picked to serve as the Chief of the County Bench. The tying together of these offices had the effect of making the Lord Lieutenant the senior seat on the Bench of Magistrates for the County. Whilst the Lord-Lieutenant no longer has any practical military duties, an Order in Council in 1908 made the office of Lord-Lieutenant the prime Office under the Crown as the Sovereign's personal representative in each County. The Lord-Lieutenant is therefore the senior constitutional figure in each preserved county and, when acting in this official capacity, takes precedent over all others. The Lord-Lieutenants are appointed by Her Majesty for an indefinite period (although they have to retire at 75 years of age). The post is non-paid. To assist him/her in these duties the Lord Lieutenant appoints a number of Deputy Lieutenants. A Vice Lieutenant is appointed from among the Deputy Lieutenants. The principal current duties of the Lord-Lieutenants of Wales are

1. Arranging visits by members of the Royal Family and escorting Royal visitors as appropriate.
2. Presentation of Awards and Medals on behalf of Her Majesty and, as appropriate, validation and submission of nominees for such Awards in liaison with the Wales Office and the National Assembly for Wales.
3. Leadership of the local Magistracy as Chairman of the Advisory Committee on Justices of the Peace (and their appointment) in liaison with the Lord Chancellors Department.
4. The duties of "the Keeper of the Rolls" (Custos Rotulorum) for the preserved county.
5. Liaison with, and support of, local regular and irregular territorial units of the Armed Forces within the preserved county.
6. The encouragement of a wide range of civic and voluntary service activities within the preserved county.
2.22 The Sheriff is the Sovereign's representative in the preserved county for all matters relating to the Judiciary and the maintenance of law and order. The Shrievalty is the oldest secular office after the Crown. The Sheriff takes precedence in the preserved county immediately after the Lord Lieutenant. The precise origins of the office are unknown but the Sheriff was an important office in England prior to the Norman conquest. The office of Sheriff was first introduced into parts of Wales in the thirteenth century following the creation of the counties of Merioneth, Caernarfonshire and Anglesey. It was fully established throughout all the Counties of Wales by the Laws in Wales Act 1535. The Sheriffs' duties embraced every aspect of local government from the collecting of the royal dues to the policing of the shire and the executing of the decisions of the courts. Subsequently, the Sheriff has ceded many of these responsibilities to a variety of other bodies: Lord-Lieutenants, High Court Judges, magistrates, local authorities and the Inland Revenue. The Sheriff of each preserved county is appointed by the Her Majesty in April for a 1 year term. The present duties of the Sheriffs are:

1. Attendance at Royal visits to the preserved county.
2. The well being and protection of Her Majesty's High Court Judges when on circuit in the preserved county and attending them in Court during the legal terms.
3. The execution of High Court Writs and Orders.
4. Responsibility for the proclamation of the accession of a new Sovereign.
5. The maintenance of the loyalty of subjects to the Crown.

2.23 The general responsibility for the maintenance of law and order and the specific responsibility for the protection of High Court judges are delegated to the police. Note that there is no need for a Sheriffs' area to coincide with a police area. Since every Sheriff in England and Wales delegates these duties to the police, each police force assumes these responsibilities for its whole area.

2.24 The main practical legal duty in which the Sheriff is still involved is the issuing of High Court Writs and Orders. To undertake this task the Sheriff is obliged to appoint an Under Sheriff. The areas covered by the Under Sheriffs are known as Bailiwicks. These areas are not co-terminous with the preserved counties. There are 14 bailiwicks in Wales. They are based upon the 13 historic counties (with the bailiwick for Swansea being separate from that of the rest of Glamorgan).

2.25 The Sheriff also attends the Crown Court whenever a High Court Judge is present and provides general hospitality to such Judges. Sheriffs typically also involve themselves in a great deal of community work within their area.

2.26 Given these functions there is no need for the Lord-Lieutenants and Sheriffs' areas to coincide with local government areas. The traditional Counties, either singly or in groups, are the obvious choice for the basis of these offices.

**A general-purpose geography for Wales?**

2.27 The interests of efficiency and public accountability require that the geographical organization of the major forms of public administration (i.e. of local government, the police, fire and health services and the judicial system) are understood by the public. However, such administrative geographies tend to be unsuitable for more general purposes. In particular the modern trend to try to use local government areas as basis for general-purpose geography has many drawbacks. Local government names and areas are forever changing. We cannot be
expected to re-learn our whole notion of "where places are" every twenty years or so. The present local government areas of Wales are particularly unsuitable for this purpose since many of them borrow the name of a town or city within them.

2.28 We currently live in a state of "geographical confusion" in Wales. Three separate geographies contend for the use of map-makers, publishers the media etc. The present local government principal areas are used by some as a general-purpose geographical framework despite their obvious unsuitability for this purpose. The preserved counties also continue to be widely used. However, as the submission of the Wales Association of Community and Town Councils noted, the people of Wales actually still tend to relate to the geography of the 13 historic Counties.

2.29 Clearly, Wales needs a fixed geography for general purposes: one divorced from the very changing names and areas of local government but, instead, one rooted in history, tradition and commonly held notions of community and identity. The 13 historic Counties are the only choice for such a geography. We note that the 6 Counties of Northern Ireland have no role in local government but are used by everyone as the basis of its geography.
3. The Terms of Reference of the Review of the Preserved Counties

3.1 The terms of reference for the review are to be found in Section 54(lA) of the LGA 1972: "The Welsh Commission may, in consequence of a review conducted by them under this Part of this Act make proposals to the National Assembly for Wales for effecting changes in the area of a preserved county which appear to the Commission to be desirable having regard, in particular, to the purposes, for which the preserved counties are retained."

3.2 We note with some concern that the last sentence of Section 1.3 of the Commission's Guidance Note to the Review of the Preserved Counties says in relation to the review: "In consequence of such a review, the Commission may make proposals to the National Assembly for Wales for effecting changes appearing to the Commission desirable in the interests of effective and convenient local government."

3.3 This wording does not correspond with the purpose of a review of the preserved counties as laid down in Section 54(lA) of the LGA 1972. Local government is not one of the purposes for which the preserved counties are retained. The main consideration of the Commission in this review should not be the interests of effective and convenient local government. The main purpose of the preserved counties is as the basis for the Lieutenancy and Sheriffs' areas of Wales. Hence, in having regard to the purposes for which the preserved counties, the central issue to be addressed is whether amendments to the preserved counties could produce a set of areas more appropriate for these purposes. To determine this, there are three broad aspects which need to be considered:

1. Would any amendments to the preserved counties enable the Lord Lieutenants and Sheriffs to perform their duties more effectively? There are many factors to be considered here. Does the public understand the present geographical organisation of the offices? Do the present arrangements confer sufficient status on these important constitutional offices? Do the present arrangements enable the officers to obtain a sufficiently high profile and standing within the communities they serve? Do the present areas suit the needs of each specific function of the offices? Do the present areas maintain the history and heritage of these offices?

2. What effect would any amendments to the preserved counties have on the identities of the historic Counties and their role in the national life? The long association of the offices of Lord-Lieutenant and Sheriff with the historic Counties has meant that these offices have become closely linked in the public mind with the whole notion of what a "county" is. Whilst not technically correct, many regard a Lieutenancy or Sheriffs' area as a de-facto definition of what a "county" is. The removal of the offices of Lord-Lieutenant and Sheriff from the historic Counties in 1974 has undermined to a significant extent the identities of the historic Counties. Any further changes to the areas of the preserved counties will impact (favourably or adversely) on the public perception of what a "county" is and, hence, on the role of the historic Counties in the national life. This should form an important consideration of the review.

3. What effect would any amendments to the preserved counties have on the current state of "geographical confusion" in Wales? As noted in Section 1, the
various administrative geographies of Wales do not form a useful
general-purpose geography for Wales. The fact that some sections of the
media and the publishing world still use the preserved counties for
general-purpose geography means that the effect that any change in the
preserved counties would have on the general state of popular geography in
Wales should be an important consideration of the Review.
4. **ABC's Comments on the Commission's Draft Proposals**

4.1 The Commission has made 3 Draft Proposals:

1. a minor change to the boundary between the preserved counties of Mid Glamorgan and South Glamorgan to reflect the recent change to the boundary between the principal areas of Rhondda Cynon Taff and The Vale of Glamorgan.
2. a change to the boundary between the preserved counties of Clwyd and Gwynedd so as to include the whole of the principal area of Conwy within the preserved county of Clwyd.
3. a change to the boundary between the preserved counties of Gwent and Mid Glamorgan so as to include the whole of the principal area of Caerphilly within the preserved county of Gwent.

4.2 ABC disagrees with all three of the Draft Proposals.

4.3 The main consideration of the review should be whether any changes in the areas of the preserved counties are desirable in order to produce a more appropriate set of areas for the offices of the Lord-Lieutenants and Sheriffs. Instead, the Commission's guiding philosophy seems to be that expressed in Section 5.2 of the Draft Proposals report: "We have considered the relationship between preserved county and unitary authority boundaries and have taken note of the comments made in respect of this relationship in the representations received. We are of the view that, wherever possible, preserved county boundaries should be aligned with unitary authority boundaries as this has benefits in terms of the identification and administration of preserved counties."

4.4 ABC disagrees with this approach. Local government is not one of the functions for which the preserved counties are retained. The boundaries of the principal areas should, therefore, be at most a secondary consideration of the review process. However, the Commission's main aim seems to be align all of the preserved county boundaries with those of principal areas. It does not attempt to substantiate its claim that this will have benefits in terms of the identification and administration of preserved counties. It does not make clear what these alleged benefits are.

4.5 ABC does not accept that there are any significant benefits (in terms of the identification and administration of preserved counties) in aligning the boundaries of the preserved counties with those of principal areas. We note that there is an almost complete separation of Lieutenancy areas in Scotland and Northern Ireland from those of local government. We also note that the representation from the Clerk to the Lieutenancy of Mid Glamorgan pointed out that the division of the Caerphilly principal area between two Lieutenancy areas had not in practice given rise to any special problems from the perspective of the Mid Glamorgan Lieutenancy. Neither the Lord Lieutenant of Gwynedd nor the Lord-Lieutenant of Clwyd made a representation seeking an end to the division of the Conwy principal area between their Lieutenancies.

4.6 The Commission's case for seeking to include the whole of the Caerphilly principal area in the preserved county of Gwent (paragraph 5.10 of the Draft Proposals report) seeks to justify this by reference to the local government, police and health authorities areas. Local government, the police service and the health service are not functions for which the
preserved counties exist. It is totally wrong to try to justify a change in preserved county boundaries by appealing to the current areas of these particular administrative functions. The Commission's rationale for proposing the inclusion of the whole of the Conwy principal area in the preserved county of Clwyd (Section 5.7 of the Draft Proposals report) is even weaker. Here the Commission tries to argue that the basing of an NHS Trust on the combined area of the principal areas of Conwy and Denbighshire is a reason for amending the areas of the preserved counties!
5. **ABC's Proposal for the Preserved Counties**

5.1 **As an alternative to the Commission's Draft Proposals, ABC proposes that the areas of the preserved counties should be amended so that a preserved county is based on each of the 13 historic Counties of Wales.**

5.2 We describe the advantages of our proposal compared to the Commission's Draft Proposals in terms of the factors relevant to the review as discussed in Section 3.

**Advantages of ABC’s proposal to the office of Lord-Lieutenant**

5.3 *The historic counties form a fixed geographical framework widely understood by the people of Wales.*

Any form of public administration needs to be based on a geographical framework that is easily understood by the people it seeks to serve. The Commission's proposed geography for the Lieutenancies will not meet this requirement. It is highly debatable that the geography of the local government principal areas of Wales is well understood by the people of Wales. The Commission's approach is to seek to build the Lieutenancies from groups of these principal areas. These Lieutenancies are then to bear the name of one of the local government "counties" as existed from 1974-1996. These names are already fading from public memory, not unsurprisingly since they generally had no historical or cultural significance. Even those who retain an understanding of the 1972-1996 local government geography will find this of limited use since, whilst continuing to bear these names, the Lieutenancies will not necessarily have the same areas.

5.4 In contrast the geography of the 13 historic Counties of Wales is well understood by most in Wales and held in affection by many. Basing the Lieutenancies upon the historic Counties would make the geographical basis of these offices clear to all. Furthermore a return of the lieutenancies to the traditional Counties will mean that the areas of the Lieutenancies can remain fixed throughout future changes to local government areas. The lesson of the last 30 years is that local government is subject to frequent, often major change. If, as the Commission proposes, the Lieutenancies are tied to local government areas, then the Lieutenancy areas will have to follow this pattern of frequent change. This is neither necessary nor desirable. There are obvious advantages to the office of Lord-Lieutenant in terms of administration and identification of having a fixed area.

5.5 The profile of Lord-Lieutenant and the esteem in which the office is held by the public will be improved by basing it upon the historic Counties. Even assuming that the public could understand the geographical framework on which the Commission proposes the Lieutenancies be based, these areas would still carry little historic or cultural significance. This can only have a detrimental effect on the public profile of the Lord-Lieutenant and on the esteem in which he/she is held by the communities he/she serves. In contrast, the historic Counties of Wales are continuing historical, geographical and cultural entities. The association of the Office of Lord-Lieutenant with an historic County will significantly increase the profile of the officer who would then be seen as serving a real community rather than an arbitrary, shifting, administrative area. This will inevitably assist the Lord-Lieutenant's work.
5.6 The constitutional importance of the Lord-Lieutenants dictates that they should be appointed to areas of historical and cultural significance.

It is surely incongruous that such a senior constitutional figure as the Lord-Lieutenant should serve an area with no historic and cultural significance, made up from an arbitrary combination of local government principal areas. We submit that appointing these senior constitutional figures to a set of areas which form "a vital element of the national life" is far more appropriate.

5.7 The historic Counties will be more suitable areas for the specific duties of the Lord-Lieutenants.

We consider that the specific duties of the Lord-Lieutenants of Wales (See Section 1) could be performed just as well, and better in some cases, if the Lieutenancy areas were re-aligned with the historic Counties. In particular, in their role as Custos Rotulorum the Lord-Lieutenants have responsibility for the records of the Courts of Quarter Sessions. These are the records of the business of quarterly meetings of the Justices of the Peace for each (historic) County from the sixteenth century until to 1971. They are major collections of historical documents. They are based upon the historic Counties and so should the office with responsibility for them be. We note that the role of the Lord-Lieutenant as Chairman of the Advisory Committee on Justices of the Peace already requires joint arrangements since the magistrates courts' committee areas and the commission areas are no longer based on the preserved counties.

5.8 The lieutenancy areas of Scotland are not generally related to local government areas, many are based on an historic County.

Under the Lord-Lieutenants (Scotland) Order 1996 (SI1996/731) there is little correspondence between the Lieutenancy areas of Scotland and those of the current local government areas. Indeed, many of the current Lieutenancy areas are based closely on an historic County (e.g. Aberdeenshire, Banffshire, Berwickshire, Caithness, Clackmannan, Fife, Kincardineshire, Moray, Orkney, Ross and Cromarty, Shetland, Sutherland, Kircudbrightshire, Wigtownshire). If such a separation of Lieutenancy areas is possible in Scotland then it ought to be possible in Wales.

Advantages of ABC's proposal to the office of Sheriff

5.9 Most of the arguments made above for basing the Lieutenancies upon the historic Counties apply equally to the Sheriffs' areas. In the interests of administration and identification these too need to be based on a fixed reference frame of historical and cultural significance. Historical precedence and the important constitutional position of the Sheriffs also dictate that the historic Counties should be the areas used.

5.10 In addition, however, there are strong practical reasons for basing the Sheriffs' areas on the historic Counties. We noted in Section 2.22 that to fulfill his duties as regards the issuing of High Court Writs and Orders the Sheriff appoints an Under Sheriff. The Under Sheriffs' bailiwicks are based upon the 13 historic Counties. It makes administrative sense if the Sheriffs are based on the same areas as the Under Sheriffs.

Advantages of ABC's proposal to the role of the historic Counties in the national life

5.11 As noted in Section 1, aspects of the local government reforms of 1974 and 1996 have undermined traditional county loyalties and identities to some extent. Prime among these was the removal of the Lieutenancies and Sheriffs' areas from the historic Counties and the appointment of them to the 8 "counties" of the LGA 1888. A return of the Lieutenancies and
Sheriffs' areas to the historic Counties would do much to make good the adverse consequences of the 1972 Act for the identities of the historic Counties and be an appropriate way of giving official recognition of the important role the Counties play in the national life.

**Advantages of ABC's proposal to the geography of Wales**

5.12 Aligning the preserved counties with those of the historic Counties would reduce the three geographies currently prevalent with regard to Wales to two and be a big help in relieving the "geographical confusion" described in Section 1. The convention followed by OS since 1889 has been that the area of the Lord-Lieutenant is denoted as "county" on its maps. A return of this office would help to promote the use of the historic Counties as the standard general-purpose geography for Wales.

**A limited proposal with several advantages over the Commission's Draft Proposals**

5.13 Some (though not all) of the advantages of a return to the use of the historic Counties as a basis for the Lieutenancies and the Sheriffs' areas could be obtained by the following more limited set of amendments to the preserved counties:

1. the boundaries of the preserved county of Gwent be amended so that they are aligned with those of the historic County of Monmouthshire (i.e. NOT the local government principal area of this name).

2. the boundaries of the preserved counties of South Glamorgan and Mid Glamorgan be amended slightly so that the combined area of Mid Glamorgan, South Glamorgan and West Glamorgan coincides with the historic County of Glamorgan.

3. the boundaries of the preserved county of Powys be amended so that the preserved county coincides with the combined area of the historic Counties of Brecknockshire, Radnorshire and Montgomeryshire.

4. the boundaries of the preserved county of Gwynedd be amended so that the preserved county coincides with the combined area of the historic Counties of Merioneth, Caernarfonshire and Anglesey.

5. the boundaries of the preserved county of Clwyd be amended so that the preserved county coincides with the combined area of the historic Counties of Denbighshire and Flintshire (i.e. NOT the local government principal areas of these names).

5.14 The advantage of this scheme would be that the preserved counties would be linkers to the historic Counties (rather than, as the Commission's Draft Proposal's suggest, to local government areas). The resulting system would have the same number of Lord-Lieutenants and Sheriffs as at present and would actually entail a smaller area of land being swapped between the preserved counties than is being suggested by the Commission's Draft Proposals. This scheme also has the great advantage over the Draft Proposal that its areas could remain fixed throughout future local government change.

5.15 Some of the advantages to the offices of Lord-Lieutenant and Sheriff which would result from their being associated with an historic County could still be obtained under this idea. The preserved county of Gwent would be identical in area to the historic county of Monmouthshire. The historic County of Glamorgan would be served by three lieutenancies. In the other preserved counties, recognition could be given to each of the historic Counties by assigning sets of Deputy Lieutenants on a historic County basis. We note that within the current preserved county of Powys, sets of Deputy Lieutenants are already ascribed to each of
the 3 historic Counties of Brecknockshire, Radnorshire and Montgomeryshire (actually not quite all of Brecknockshire lies in the present preserved county of Powys and a small part of Merioneth is under the jurisdiction of the Montgomeryshire Deputy-Lieutenants). This system could easily be adopted in the other preserved Counties, but only if their boundaries are aligned with historic County boundaries.

5.16 A problem with this idea is that it would preserve the names of the 1974-1996 local government "counties" and give the impression that these are made from blocks of historic counties. Less confusing, geographically descriptive names would be preferable to this (i.e. "Southwest Wales" rather than "Dyfed", "Mid-Wales" rather than "Powys", "North-West Wales" rather than Gwynedd, "North-East Wales" rather than "Clwyd", Gwent should be renamed Monmouthshire). We note that the Assembly has the power to change the name of any preserved County (Section 20(9) of the LGA 1972).
6. Conclusions

6.1 Our proposal that the areas of the preserved counties should be aligned with those of the 13 historic (or traditional) Counties of Wales would correct one of the two major faults of the LGA 1972, i.e. that of removing the ceremonial offices from the areas of the 13 historic Counties of Wales and aligning them with the 8 local government "counties" created by that Act. These two important constitutional and historic offices deserve to be based upon areas of historical and cultural significance and not on historically and culturally meaningless combinations of local government areas. Likewise, the basing of these offices on the historic Counties would be an appropriate official recognition of the important part the Counties play in our national life.

6.2 The other major fault of the LGA 1972 was in naming its top-tier areas "counties". This folly of the 1972 Act has now been compounded by the perplexing set of local government terminology allowed under the 1972 Act as amended by the LG(VV)A 1994. We recognise that the Commission is not empowered to rectify this situation. Nonetheless, for the sake of completeness, we list below the relatively simple measures that need to be taken to sort out the current mess.

1. The word "county" and the phrase "county borough" should be removed from local government terminology in Wales. The splitting of the "principal areas" of the LGA 1972 into "counties" and "county boroughs" is unnecessary and confusing. All of these areas should be described as "districts".

2. The principal councils should be known as "district councils" or just "councils". The principal councils of Cardiff, Swansea and Newport should be allowed to use the style "city council".

3. The phrase "preserved county" should be replaced with the more appropriate "ceremonial county".

4. The Ordnance Survey should be directed to mere the boundaries of the ceremonial counties and present them under the label "county (ceremonial)" on its larger-scale maps.

5. A uniform type of road sign should be used throughout Wales to mark the boundaries of the 13 historic Counties. These should be based on white on brown tourist signs and include the phrase "Historic County of above the County name so as to draw a clear distinction between these signs and those erected by local authorities.

6. The legislation concerning the boundary signs showing local government boundaries should be amended so as to ensure that the full council name appears on such signs.

7. The principal councils of the principal areas of "Flintshire", "Denbighshire" and "Monmouthshire" should be encouraged to adopt more appropriate names ("Flint", "Denbigh" and "East Monmouthshire" being obvious possibilities).
Appendix A. The purposes for which the preserved counties are relevant

As noted in Section 1, the LG(W)A 1994 established the purposes for which the preserved counties were to be the relevant areas. However, in many areas further legislation has superseded the provisions made by the LG(Vt)A 1994. In this appendix we briefly review those areas of legislation which were relevant at the time of the passing of the LG(VV)A 1994. We highlight those types of administration for which the preserved counties are still relevant and hence which should be considered as part of the Review of the Preserved Counties.

The Lieutenancies Act 1997
The current areas and duties of the Lord-Lieutenants of Great Britain are governed by the Lieutenancies Act 1997. Section 1(1) of the Act says:
"A lord-lieutenant shall be appointed by Her Majesty for each county in England, each county in Wales and each area in Scotland (other than the cities of Aberdeen, Dundee, Edinburgh and Glasgow)."

Section 6 of Schedule 1 says:
"The counties of Wales for the purposes of this Act are the preserved counties, that is to say, the counties in Wales as they stood immediately before the passing of the Local Government (Wales) Act 1994 (but subject to any redrawing of their boundaries by or under that Act or the Local Government Act 1972)."

Hence, any change in the areas of the preserved counties will affect a change in the areas of the Lord-Lieutenants of Wales.

The Sheriffs Act 1887
The areas and duties of the Sheriffs of England and Wales are governed by the Sheriffs Act 1887. Section 3(1) of the Act states that:
"A sheriff shall be appointed annually for every county."

Section 3(4) of the Sheriffs Act 1887 says:
"In this Act "county", in relation to Wales, means a preserved county (as defined by Section 64 of the Local Government (Wales) Act 1994)."

Hence the Sheriffs of Wales are also appointed to the preserved counties. Any change in the areas of the preserved counties will affect a change in the areas of the Sheriffs.

The Defence Act 1842
Under this Act the Lord-Lieutenant and Deputy-Lieutenants of a preserved county are given several duties in relation to the defence of the realm. Prime among these is the right to take land for the defence of the realm without the consent of the owners should the interests of necessity and expediency require this. As noted above, changes to the preserved counties will change the Lieutenancy areas, though the effect of this on these esoteric duties of the Lord-Lieutenant should not be a major concern of the review.

The Sea Fisheries (Shellfish) Act 1967
Section 10 of this Act says that the portion of the sea-shore to which a sea fisheries order applies shall be deemed to lie within the bodies of the various administrative areas adjoining the sea shore (including the preserved counties). Now that the judicial areas are no longer related to the preserved counties (see below) it is hard to think of a context in which this could be relevant. It is certainly not an issue which should bear on a consideration of what the areas of the preserved counties should be.

The Interpretation Act 1978
Schedule 2 Section 9 of the LG(W)A 1978 amended this Act such that the following definition of "Wales" now appears in Schedule 1:
""Wales"" means the combined area of the counties which were created by Section 20 of the (1972 c. 701 Local Government Act 1972, as originally enacted but subject to any alteration made under section 73 of that Act (consequential alteration of boundary following alteration of watercourse)."

Note that this definition does not actually involve the preserved counties but the counties of the 1972 Act as first created. The only way a change can be made to the area defined as "Wales" would be via an alteration of a watercourse. Hence, any changes to the preserved counties will not affect this definition. It is worth noting that this definition of "Wales" is different to that within the LGA 1972 (see below).

The Justices of the Peace Act 1979
The Magistrates Court Act 1980
The Licensing Act 1964

Those parts of the Justices of the Peace Act 1979 and the Magistrates Court Act 1980 relevant to the preserved counties were superseded by the Justices of the Peace Act 1997. This Act, as originally enacted, did refer to the preserved counties as the basis for "commission areas", "petty sessions areas" and "magistrates' courts committee (MCC) areas". However, these sections of the 1997 Act have now been amended by the Access to Justice Act 1999. The preserved counties are no longer referred to in the amended Justices of the Peace Act 1997.

Section 1 of the amended Justices of the Peace Act 1997 now stipulates that the commission areas shall be as specified by the Lord Chancellor by order made by statutory instrument. Similarly, Section 4 of the amended 1997 Act now stipulates that the petty sessions areas shall be as specified by the Lord Chancellor by order made by statutory instrument. Similarly Section 27A of the amended Act now stipulates that the MCC areas shall be as specified by the Lord Chancellor by order made by statutory instrument.

Under SI 2001/695, the MCC areas of Wales are defined by reference to the local government principal areas of Wales and NOT to the preserved counties.
Dyfed Powys: Carmarthenshire, Ceredigion, Pembrokeshire, Powys
Gwent: Blaenau Gwent, Caerphilly, Monmouthshire, Newport, Torfaen
North Wales: Isle of Anglesey, Denbighshire, Flintshire, Gwynedd, Wrexham, Conwy
South Wales: Bridgend, Cardiff, Swansea, Merthyr Tydfil, Neath Port Talbot. Rhondda Cynon Taff, Vale of Glamorgan

Under SI 2001/696, the commission areas are defined by reference to the MCC areas and to local government areas:
Dyfed Powys: the areas of Dyfed Powys MCC Gwent: the area of Gwent MCC
North Wales: the areas of North Wales MCC
South Wales: that part of the area of the South Wales MCC comprising the local government areas of Cardiff, Merthyr Tydfil, Rhondda Cynon Taff, Vale of Glamorgan
West Glamorgan: that part of the area of the South Wales MCC comprising the local government areas of Swansea, Neath Port Talbot

Under SI 2001/694 the petty sessions areas within each MCC area are listed. The petty sessions areas are not generally related to preserved counties or local government areas (except insofar that they must lie within an MCC area). A map showing the petty sessions areas is maintained by the Lord Chancellor.

Hence, the legislation defining areas for magistrates' courts committees, commission areas or petty sessions areas makes no reference to the preserved counties. In some places these areas already cross preserved county boundaries. For example, the whole of the Caerphilly local government area is already in the Gwent MCC area and commission area. There is no need to amend the preserved counties to facilitate this. Hence, in considering changes to the preserved counties, the arrangements for the MCC areas, commission areas or petty sessions areas are no longer a relevant factor.

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The licensing districts of the Licensing Act 1964 are the petty sessions areas. These are no longer based upon the preserved counties.

**The Representation of the People Act 1983**

**The Parliamentary Constituencies Act 1986**

These Acts relate to the role of the preserved counties as a basis for parliamentary constituencies in Wales. In theory, these should be based within preserved counties although the regulations (Schedule 2 of the 1986 Act) give the Boundary Commissions a fair degree of discretion. The current parliamentary constituencies of Wales are laid out in the Parliamentary Constituencies (Wales) Order 1995 (SI 1995/1036). These constituencies were based within the "counties" of the LGA 1972 as they then existed, although the actual constituencies are described in terms of the local government "districts" and their wards as they then existed. The geography on which the constituencies were based has altered radically. Whilst the preserved counties still exist for the purpose of parliamentary constituencies, there have already been changes in the area of these compared to the areas of the "counties" at the time of SI 1995/1036. The "districts" have all been abolished. Neither of these has necessitated a change to parliamentary constituencies. The geography of SI 1995/1036 does not have to be amended to keep pace with changes to preserved counties or local government areas. Hence, any changes recommended by the Commission will not necessitate a change in parliamentary constituencies. We note that a general review of parliamentary constituencies will be conducted over the next few years. Given that the present boundaries are actually defined in terms of the former local government districts, it certain that any future definitions will be in terms of the present local government "principal areas".

**The Local Government Act 1972**

As has been noted above, Section 20(6) of 1972 Act provides for the retention of the preserved counties for certain administrative purposes (listed in Part II of Schedule 4 of the Act). As also noted above, Section 56(1) enables the National Assembly for Wales to direct the Commission to review the areas of the preserved counties and section 54(lA) enables the Commission to recommend changes in the preserved counties following such a review. These provisions will remain unaltered by any changes in the areas of the preserved counties and are not relevant factors in the review.

Section 269 of the 1972 Act says:
"In this Act "Wales" means the combined area of the preserved counties and "England" does not include any area which is included in any of the preserved counties."

Note that this is slightly different to the definition of "Wales" in the Interpretation Act 1978. The latter Act only allows for a change in the area it defines as "Wales" subsequent to the alteration of a watercourse (see above). The area that the LGA 1972 defines as "Wales" could be altered by a change in the area of one or more preserved county if this involved adding to or subtracting from that preserved county an area which had previously been part of the area the Act defines as "England". However, such a scenario cannot happen under the present review. Any changes to the preserved counties brought about by this review will not alter the definitions of "Wales" in either the Interpretation Act 1978 of the LGA 1972 and, hence, this issue is not a relevant factor in this review.

Section 219 of the LGA 1972 (sheriffs and under-sheriffs) contains various provisions relating to sheriffs and under-sheriffs. Subsections (1), (5) and (9) are of relevance to the preserved counties. We reproduce these:

"(1) Sheriffs appointed for a county or Greater London shall be known as high sheriffs, and reference in any enactment or instrument to a sheriff shall be construed accordingly in relation to sheriffs for a county or Greater London"

“(5) Where the area for which an under-sheriff acts is situated in two or more counties, the duty imposed by section 23 of the Sheriffs Act 1887 of appointing the under-sheriff for that area shall be discharged by the high sheriff of the county containing the greater part of that area, after consulting..."
any other high sheriff concerned, and if any question arises as to which county claims the greater part of an under-sheriff’s area, it shall be determined by the Lord Chancellor.

“(9) In subsections (1) and (5) above “county” in relation to Wales, means a preserved county.”

Section 219(9) ties in with the use of the preserved counties for the Sheriffs Act 1887. Clearly, changes to the preserved counties will affect the Sheriffs of Wales and, hence, these should form a factor in the review.

Subsection (1) and (3) of Section 224 (Arrangements by principal councils for the custody of documents) of the LGA 1972 say:

"(1) Without prejudice to the powers of the Custos Rotulorum to give directions as to the documents of any county, a principal council shall make proper arrangements with respect to any documents that belong to or are in the custody of the council or any of their officers.

(3) In subsection (1) above “county”, in relation to Wales, means a preserved county.”

We noted in Section 2 that the Lord-Lieutenant is also the Custos Rotulorum for each preserved county in Wales. The main role of the Custos Rotulorum is the responsibility for the records of the courts of Quarter Session held from the sixteenth century to 1971. These important sets of historical documents are based on the historic Counties. Changes to the preserved counties will affect the area of the Custos Rotulorum and hence, the geographical basis of the responsibility for these records.
Appendix B. Boundaries of our proposed amended preserved counties.

The expression "historic County" as used in this report refers to one of the Counties of Wales as established by the Laws in Wales Act 1535. The Counties are also commonly referred to as the "ancient or geographical counties", for example in the General Register Office's Census Reports from 1891 onwards and in the Ordnance Survey's Notes on County, Parish, Borough and Other Boundaries.

The boundaries of the historic counties were mered by the Ordnance Survey in the 19th century and presented on the first edition 1:2500 and 1:10560 county series maps. These maps form the definitive record of the boundaries of the historic Counties.

We are not proposing in this document to alter or amend any of the boundaries of the historic Counties. What we are suggesting is that the modem administrative areas known as "preserved counties" be brought closely into line with the historic Counties. There are two ways this could be done.

The first would be to specifically tie the preserved counties to the areas of the historic Counties (using the boundaries on the first edition maps). This would effectively be a return to the pre-1889 set-up.

The second would be to define the preserved counties in terms of the pre-1974 local government areas. As noted in Section 1, from 1889-1974 the Lord-Lieutenants and Sheriffs were not based upon the directly upon the historic Counties but were defined in terms of the local government "administrative counties" and "county boroughs". This system worked because the local government areas themselves were closely based on the historic Counties.

This latter might be felt preferable in that it would include the whole of the pre-1974 administrative county of Monmouthshire (including Rassau, Gilwern etc.) in the proposed new preserved county of Monmouthshire. It would also avoid the potential inconvenience that might be caused by the detached part of historic County Caernarfonshire within the historic County of Denbighshire around Old Colwyn (this was eradicated as far as the administrative counties were concerned in the early 20th century).

We note that this method is used within The Lord-Lieutenants (Scotland) Order 1996 (SI1996/731) where most of the present set of lieutenancy areas are defined in terms of former local government areas, including the pre-1975 local government counties of Banffshire, Aberdeenshire, Morayshire.