

## COMMUNITY GOVERNANCE REVIEWS (ENGLAND)

### Introduction

1. This Note looks at how community governance reviews (“CGRs”) can lead to the creation, abolition, alteration or grouping of parish councils. It contains information on:
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2. A CGR is a review of local governance by a principal council (a district council, unitary county council or a London borough council) of the whole or part of its area. The CGR process is set out in the Local Government and Public Involvement in Health Act 2007 (“the 2007 Act”) [**note:** *all references to sections in this Note are references to the 2007 Act unless otherwise stated*] as amended by the Legislative

Reform (Community Governance Reviews) Order 2015 (“the 2015 Order”). The 2015 Order made the following changes to the 2007 Act:

- it reduced the number of signatures required for a valid community governance petitions (see paragraph 10)
- it introduced a community governance application (see paragraph 12)
- it reduced the time for completing a CGR (see paragraph 17)

### **DCLG guidance**

3. In 2008, the Secretary of State and the Electoral Commission issued statutory guidance on CGRs for principal councils. This was replaced in 2010 (“the 2010 guidance”) when the Local Government Boundary Committee for England (“LGBCE”) became responsible for the boundary-related functions previously exercised by the Electoral Commission.
4. The 2010 guidance can be found at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/8312/1527635.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/8312/1527635.pdf)

### **When should a principal council review governance arrangements?**

5. Paragraph 26 of the 2010 guidance states “*Principal councils will want to keep their community governance arrangements under review, and they should ensure that they consider on a regular basis whether a review is needed. A review may need to be carried out, for example, following a major change in the population of a community ....or to re-draw boundaries which have become anomalous, for example following new housing developments being built across existing boundaries. Principal councils should exercise their discretion, but it would be good practice for a principal council to consider conducting a review every 10-15 years – except in the case of areas with very low populations when less frequent reviews may be adequate.*”
6. As well as on its own initiative, a principal council must carry out a CGR if it receives either a community governance petition or a community governance application that relates to the whole or part of its area. It is not under this duty if it is conducting or has already conducted a CGR of substantially the same area in the

previous two years (s.83) although it has the power to undertake another CGR if it so wishes. (paragraph 25 of the 2010 guidance).

### **Community governance petitions**

7. A community governance petition ("a petition") must define the area covered by the CGR, whether on a map or otherwise (s.80(4)). For example, if a petition is to alter a parish, it must define the alteration. Petitions can relate to parished or unparished areas.
8. S.80(4) requires a petition to specify one or more recommendations for the CGR to consider. CGR recommendations can deal with a variety of matters including:
  - the creation of a parish
  - the name of a parish. The petition should express any names preferred in respect of alterations of existing parishes
  - the establishment of a separate parish council within an existing parish
  - the alteration of boundaries of existing parishes
  - the abolition of a parish
  - the dissolution of a parish council
  - changes to the electoral arrangements of a parish council
  - whether a parish should be grouped under a common parish council or split up
9. If a petition's recommendations include the establishment of a parish council or a parish meeting for an area which does not exist as a parish, the petition is treated as if there is also a recommendation for such a parish to come into being (either as a new parish or alteration of an existing parish).
10. A petition must be signed in accordance with s.80(3). If the petition area:
  - a) has fewer than 500 local government electors, the petition must be signed by at least 37.5% of the electors;
  - b) has between 500 and 2,500 local government electors, the petition must be signed by at least 187 of the electors;
  - c) has more than 2,500 local government electors, the petition must be signed by at least 7.5% of the electors.
11. Paragraph 41 of the 2010 guidance states: *"It is recommended that petitioners aim to collect the requisite number of signatures based on the most recently published*

*electoral register. It should be against this register that the [above] petition thresholds will be assessed."*

## **Community governance applications**

12. A community governance application ("CGA") can only be made by a body designated as a neighbourhood forum under s.61F of the Town and Country Planning Act 1990 (s.80A(3)). It must relate to all or any part of an area specified in a neighbourhood development plan. A CGA must:

- define the area subject to CGR (whether on a map or otherwise)
- specify one or more recommendations for a CGR to consider making

13. If CGA recommendations include:

- **a new parish**, the CGA must define the area (whether on a map or otherwise)
- **the alteration of an existing parish**, the CGA must define the area after alteration (whether on a map or otherwise)
- **the constitution of a new parish**, the CGA is to be treated as if the specified recommendations also include recommendations as to the name of the new parish, as to whether or not the new parish should have a parish council and as to whether or not the new parish should have one of the alternative styles
- **the establishment of a parish council or parish meeting for an area which does not exist as a parish**, the CGA is to be treated as if the recommendations include that such a parish comes into being either by constitution of a new parish or alteration of the area of an existing parish

## **CGR terms of reference**

14. A CGR must have terms of reference that specify the area under review and also allow the petition or CGA to be considered (s.83(2)).

15. The principal council must publish the terms of reference and any modifications to them as soon as practicable after deciding them. (s.81(5)).

## **New community governance petitions or community governance applications during CGRs**

16. Pursuant to s.84, if a principal council is in the course of undertaking a CGR of part of the council's area ("the current review") and the council receives a petition or CGA which relates to a part of the council's area which is wholly outside the current review, it must follow one of the following three options:

**1st option:-**

The principal council may modify the terms of reference of the current review so that it allows for the petition or CGA to be considered.

**2nd option:-**

The principal council may undertake a CGR that is separate from the current review and has terms of reference that allow for the petition or CGA to be considered.

**3rd option:-**

The principal council may –

- a) modify the terms of reference of the current review,
- b) undertake a CGR that is separate from the current review ("the new review"); and
- c) ensure that (when taken together), the terms of reference of the current review (as modified) and the terms of reference of the new review allow for the petition or CGA to be considered.

**Time limits**

17. A principal council must conclude a CGR within the period of 12 months starting with the day on which the council receives the petition or CGA (s. 93(8)).

**Factors relevant to CGRs**

18. Community governance should reflect the identities and interests of the community, and be effective and convenient (s.93(4)). To achieve this, the principal council must take account of factors such as the impact of community governance arrangements on community cohesion, the parish's size, its population and boundaries. It must also consult electors and local interest groups (including parish councils) and take into account their representations (s.93(3) and (6) and paragraphs 66-85 of the 2010 guidance).

19. Paragraphs 55 to 61 of the 2010 guidance state:

*“55. Parish councils have an important role to play in the development of their local communities. Local communities range in size, as well as in a variety of other ways. Communities and Local Government is working to help people and local agencies create cohesive, attractive and economically vibrant local communities. The aim for communities across the country is for them to be capable of fulfilling their own potential and overcoming their own difficulties, including community conflict, extremism, deprivation and disadvantage. Communities need to be empowered to respond to challenging economic, social, and cultural trends, and to demographic change.*

*56. Parish councils can contribute to the creation of successful communities by influencing the quality of planning and design of public spaces and the built environment, as well as improving the management and maintenance of such amenities. Neighbourhood renewal is an important factor to improve the quality of life for those living in the most disadvantaged areas. Parish councils can be well placed to judge what is needed to build cohesion. Other factors such as social exclusion and deprivation may be specific issues in certain areas, and respect is fundamental to the functioning of all places and communities. The Government remains committed to civil renewal, and empowering citizens to work with public bodies, including parish councils, to influence public decisions.*

*57. ‘Place’ matters in considering community governance and is a factor in deciding whether or not to set up a parish. Communities and Local Government’s vision is of prosperous and cohesive communities which offer a safe, healthy and sustainable environment. One aspect of that is strong and accountable local government and leadership. Parish councils can perform a central role in community leadership. Depending on the issue, sometimes they will want to take the lead locally, while at other times they may act as an important stakeholder or in partnership with others. In either case, parish councils will want to work effectively with partners to undertake the role of ‘placeshaping’, and be responsive to the challenges and opportunities of their area in a co-ordinated way.*

*58. It is clear that how people perceive where they live - their neighbourhoods - is significant in considering the identities and interests of local communities and depends on a range of circumstances, often best defined by local residents. Some of the factors which help define neighbourhoods are: the geography of an area, the make-up of the local community, sense of identity, and whether people live in a rural, suburban, or urban area.*

*59. Parishes in many cases may be able to meet the concept of neighbourhoods in an area. Parishes should reflect distinctive and recognisable communities of*

*interest, with their own sense of identity. Like neighbourhoods, the feeling of local community and the wishes of local inhabitants are the primary considerations.*

*60. Today, there may well be a variety of different communities of interest within a parish; for example, representing age, gender, ethnicity, faith or life-style groups. There are other communities with say specific interests in schools, hospitals or in leisure pursuits. Any number of communities of interest may flourish in a parish but they do not necessarily centre on a specific area or help to define it.*

*61. Building a sense of local identity may make an important contribution to cohesion where a local area is facing challenges arising from rapid demographic change. In considering the criteria, community governance reviews need to home in on communities as offering a sense of place and of local identity for all residents.”*

20. Paragraph 63 of the 2010 guidance states: “*Local communities should have access to good quality local services, ideally in one place. A parish council may be well placed to do this. With local parish and town councils in mind, effective and convenient local government essentially means that such councils should be viable in terms of providing at least some local services, and if they are to be convenient they need to be easy to reach and accessible to local people.*”

## **CGR Recommendations**

21. The 2007 Act sets out possible CGR recommendations. They can include the creation of a parish council or a parish meeting, their abolition, alteration or grouping. Alternatively the recommendation may be for no change to existing arrangements.

### **Section 87: the creation of a new parish**

22. A CGR must make recommendations about the new parish or parishes (if any) to be created. A new parish can be created—
- a) by creating a parish from an unparished area (defined as an area which is not a parish or part of a parish);
  - b) by combining one or more unparished areas with one or more parished areas;
  - c) by combining parts of parishes;
  - d) by combining two or more parishes;
  - e) by separating part of a parish

The combining of one or more unparished areas with a single parish is not the creation of a new parish.

23. If a CGR recommends that a new parish should be created, it must also recommend the name of the new parish and whether or not the new parish should have a parish council. (s.87). It must also make recommendations about electoral arrangements that should apply if a council is recommended. (see Legal Topic Note 74 - [Alternative names and styles for parish councils](#)).

### **Section 88: existing parishes – retention, alteration, abolition**

24. A CGR must make one of the following recommendations in relation to each existing parishes under review:
- a) the parish should not be abolished and its area should not be altered;
  - b) the area of the parish should be altered;
  - c) the parish should be abolished.
25. The CGR must make recommendations as to whether or not the name of the parish should be changed.
26. If the parish does not have a council, a CGR must make recommendations as to whether or not the parish should have a council. If the parish has a council, it must make recommendations as to whether or not the parish should continue to have a council. It must also make recommendations as to what electoral arrangements should apply where a council is recommended (s.89(2)).
27. However a CGR may not make any recommendations for the parish–
- a) to begin to have an alternative style (if it does not already have one), or
  - b) to cease to have an alternative style, or to have a different alternative style, (if it already has one).
28. Paragraph 117 of the 2010 guidance states: ” *While the Government expects to see a trend in the creation, rather than the abolition, of parishes, there are circumstances where the principal council may conclude that the provision of effective and convenient local government and/or the reflection of community identity and interests may be best met, for example, by the abolition of a number of small parishes and the creation of a larger parish covering the same area. If, following a review, a principal council believes that this would provide the most*



*appropriate community governance arrangements, then it will wish to make this recommendation; the same procedures apply to any recommendation to abolish a parish and/or parish council as to other recommendations. Regulations (The Local Government (Parishes and Parish Councils) (England) Regulations 2008) provide for the transfer of property, rights and liabilities of a parish council to the new successor parish council, or where none is proposed to the principal council itself."*

29. Paragraph 121 of the 2010 guidance states:"Where a CGR is considering abolishing a parish council we would expect the review to consider what arrangements will be in place to engage with the communities in those areas once the parish is abolished. These arrangements might be an alternative forum run by or for the local community, or perhaps a residents' association. It is doubtful however, that abolition of a parish and its council could ever be justified as the most appropriate action in response to a particular contentious issue in the area or decision of the parish council."
30. There are the same investigation, consultation and electoral arrangements for the abolition of a parish and/or parish council as for any other type of CGR. A CGR can recommend the abolition of a parish council as follows:
  - group the parish council with one or more parish councils
  - include the parish council within a new larger parish council
  - not replace the parish council. Abolition of a parish council without replacement is rare.
31. The 2010 guidance states that there must be clear, sustained and informed local support for abolition demonstrated over an eight year period. A principal council is expected to consider what community arrangements will be in place once the parish council is abolished - for example is there a local community forum or a residents' association? Recommendation of abolition of a parish council should generally be associated with boundary changes that amalgamate, divide or group parishes. Recommendations for changing a parish area (or part of a parish area) into an unparished area are considered undesirable unless that area is amalgamated with an existing unparished urban area (see paragraph 124). The guidance informs principal councils that decisions for abolition can be challenged by judicial review (see paragraph 122).

## **Section 91: grouping or de-grouping parishes**

32. A CGR can recommend whether or not there should be grouping or de-grouping of parish councils. If the CGR recommends grouping or de-grouping, it must also recommend what changes (if any) should be made to electoral arrangements. A recommendation under s. 91 is equivalent to the provision of an order under s. 11 of the Local Government Act ("the 1972 Act").

## **Section 92: county, district or London borough councils affected by a CGR**

33. A CGR may make recommendations to the Local Government Boundary Commission ("the Commission") as to what related alteration (if any) should be made to the boundaries of the electoral areas of any affected principal council (defined as any principal council whose area the CGR relates to including the council undertaking the CGR). The Commission may by order give effect to such recommendations. It must send each relevant principal council two copies of the order.

## **Section 94: new parish council**

34. If a CGR is required to make a recommendation whether or not a new or an existing parish should have a parish council (s.87(6) and s.88(4)(a)), it must recommend that the parish **should have** a council if the parish has 1,000 or more local government electors. If the parish has 150 or fewer local government electors, the CGR must recommend that the parish **should not have** a council unless a parish council already covers all or part of the parish.

## **Section 95: Parish wards**

35. If the principal council recommends that a parish should be divided into wards, it must have regard to the factors in s.95(5) when considering the size and boundaries of the wards, and the number of councillors to be elected for each ward. The factors are:
  - a) the number of local government electors for the parish;
  - b) any change in the number, or distribution, of the local government electors which is likely to occur in the period of five years beginning with the day when the review starts;

- c) the desirability of fixing boundaries which are, and will remain, easily identifiable;
  - d) any local ties which will be broken by the fixing of any particular boundaries.
36. If the principal council decides to recommend that a parish should not be divided into wards, the principal council must have regard to the factors in s.95(7) when considering the number of councillors to be elected for the parish. The factors are:
- a) the number of local government electors for the parish;
  - b) any change in that number which is likely to occur in the period of five years beginning with the day when the review starts
37. Parish warding is documented at paragraphs 158 – 169 of the 2010 guidance. Paragraph 158 states: *"Parish warding should be considered as part of a CGR. Parish warding is the division of a parish into wards for the purpose of electing councillors. This includes the number and boundaries of any wards, the number of councillors to be elected for any ward and the names of wards."*
38. Paragraph 160 and 161 of the 2010 guidance state *"... principal councils should consider not only the size of the electorate in the area but also the distribution of communities within it. The warding of parishes in largely rural areas that are based predominantly on a single centrally-located village may not be justified. Conversely, warding may be appropriate where the parish encompasses a number of villages with separate identities, a village with a large rural hinterland or where, on the edges of towns, there has been some urban overspill into the parish. However, each case should be considered on its merits, and on the basis of the information and evidence provided during the course of the review"*
39. *There is likely to be a stronger case for the warding of urban parishes, unless they have particularly low electorates or are based on a particular locality. In urban areas community identity tends to focus on a locality, whether this be a housing estate, a shopping centre or community facilities. Each locality is likely to have its own sense of identity. Again, principal councils should consider each case on its merits having regard to information and evidence generated during the review."*

**Publication**

40. The principal council must publish its decision and its reasons, as soon as is practicable (s.96). It must ensure that all interested persons are informed of its decision and reasons, including:–

- a) the Secretary of State;
- b) the Commission;
- c) the Office of National Statistics;
- d) the Director General of the Ordnance Survey;
- e) any other principal council whose area the order relates to - eg a county council

**Reorganisation orders**

41. S.86 enables a principal council to make an order to give effect to CGR recommendations (a “reorganisation order”). Reorganisation orders can provide for the transfer of staff, property and other legal rights and liabilities to the new successor parish council or, if no successor is proposed, to the principal council itself. The Local Government (Parishes and Parish Councils) (England) Regulations 2008 contain transitional and other provisions to facilitate the implementation of reorganisation orders.

**Making agreements**

42. Under s.99, any parish council that is affected by a reorganisation can make agreements with respect to any affected property, income, rights, liabilities, expenses and financial matters. Such an agreement may in particular provide for:

- a) the transfer or retention of any property, rights and liabilities, with or without conditions, and for the joint use of any property;
- b) the making of payments by any party to the agreement in respect of–
  - i. property, rights and liabilities so transferred or retained;
  - ii. such joint use; or
  - iii. the remuneration or compensation payable to any person;
- c) for any such payment to be made by instalments or otherwise;
- d) for interest to be charged on any such instalments.

S.99 provides for arbitration if there is no agreement between the parties.

**Financial arrangements**

43. The Local Government Finance (New Parishes)(England) Regulations 2008 contain transitional and consequential provisions for the financial arrangements of a new parish council in the financial year that it is created.

**Other relevant Legal Topic Notes (LTNs):**

LTN	Title	Relevance
8	<a href="#">Elections</a>	Sets out qualifications for standing for and holding office as a parish councillor
74	<a href="#">Alternative names and styles for parish councils</a>	Explains the considerations for different styles adopted by parish councils.
83	<a href="#">Neighbourhood Planning (England)</a>	defines neighbourhood forums and neighbourhood development plans

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