

Community Governance Reviews – Explanatory Notes

Community Governance Reviews (CGRs) are powers given to principal councils to review and make changes to the community governance in their areas – namely parish councils & areas.

The powers were bestowed under Part 4, Chapter 3 of the *Local Government and Public Involvement in Health Act 2007*. The Act was designed to streamline and speed up previous review arrangements.

Main Considerations

Section 93 LGPIHA 2007 contains the main considerations a principal council must be mindful of when making recommendations.

- Reflect the identities and interests of the community.
- Be effective and convenient.
- Consider any other arrangements for community representation or engagement.

Scope

Powers are far ranging and comprise a general or 'may undertake' a review at any time. A CGR must recommend whether a new parish should be created in the area under review. A new parish can be created by:

- Making a previously unparished area a parish.
- Combining unparished areas within existing parishes.
- Combining parts of parishes.
- Amalgamating two or more parishes (grouping).
- Separating part of a parish.

In instances where a new parish is created, the review must recommend;

- The name of the parish.
- Whether it has parish council (and its electoral arrangements).
- Whether it should have an alternative parish style.

A CGR can also make recommendations about existing parishes in the area under review. A CGR of an existing parish must recommend whether to:

- Keep the parish.
- Amend its area.
- Abolish it.
- Change its name.
- Recommend whether it should have a parish council (if it doesn't already have one) or not.
- Recommend the electoral arrangements if an existing parish council is to continue.

Electoral Arrangements

Where a CGR is required to recommend whether a new or existing parish has a parish council, the following must be recommended:

- 1,000+ local government electors = Has a parish council.
- 150 or less local government electors, no current council = No parish council.
- 150 or less local government electors, has current council or is part of a parish with a council = Whether or not to have a council.
- 151-999 local government electors = Whether or not to have a council.

A CGR's recommendations on electoral arrangements are defined as:

- The year in which ordinary elections are to be held.
- The number of councillors to be elected.
- Whether the parish council is warded (would a whole parish council be impractical or inconvenient? Does any part of parish require separate representation for identity, locality or community reasons?).
- The number and boundaries of such wards.
- The number of councillors to be elected for such wards.
- The name of such wards.

When?

A review can commence under any of the following conditions.

- A. By decision of the principal council under duty to review. Guidance states councils should keep their areas under continual review, and it is considered good practice to conduct a full review every 10-15 years.
- B. A principal council may review in response to a reasonable request. i.e. from a parish council.
- C. Must be done in response to a 'valid' Community Governance Application from a 'Neighbourhood Forum', commenced within 12 months. Such forums are defined by Section 61F of the Town and Country Planning Act 1990.
- D. Must be done in response to a 'valid' Community Governance Petition, commenced within 12 months. For a petition to be valid, it must be signed by the mandatory number of local electors. Further stipulations regarding the content of the petition also apply.

Petition Area	Registered Electors
<500 electors	At least 37.5% of electors
500 – 2,499	At least 187 electors
>2,500 electors	At least 7.5% of electors

Why?

CGRs provide the opportunity to address community governance where there has been changes to the number or makeup of a population, address boundary issues / anomalies following development, and for electors to address local issues of democracy.

When Not?

- A CGR is not required when a petition is received during such time as a CGR is underway which covers all or a significant part of relevant area.
- Not required to do so within 2 years of a completed CGR which covered all or a significant part of relevant area. But may do so.

- Where a request is deemed to be unreasonable (disruption to community cohesion, result would be detrimental to local governance). Such a decision must be justified as such to be valid grounds for refusal.

Initial Steps

The principal council decides whether or not to carry out a CGR – either by resolution or under delegated officer powers. See “When Not” heading above for instances where a CGR is optional or mandatory.

For CGR petitions, the petition must be validated. Council staff are permitted to check the local register to confirm signatories (hand written signatures) as soon as is practicable. Petitions must contain the prescribed information and recommendations.

When a principal council resolved to carry out a CGR, Terms of Reference should then be agreed, together or separately from the initial resolution, along with an agreed Timetable. The terms should clearly state the matters and the geographic area to be covered.

A project team from across principal council departments should be formed to perform the CGR, as Electoral departments are not solely responsible for the review.

Duty to inform

County councils may have valuable feedback that can inform the Terms of Reference.

Where there is both a district and county council, under section 79 of the 2007 Act the district council must notify the county council of their intention to carry out a CGR.

Under section 93 of the 2007 Act the principal council must notify other local authorities who have an interest of their intention to carry out a CGR, inclusive of county councils.

Terms of Reference – Section 81 2007 ACT.

The TOR forms the framework of the review. However, there is little statutory guidance in the legislation on what should be included and is for the principal council to decide.

Key areas should include: Context, purpose & scope, area, timetable, plans for consultation and decision making, electoral forecasts, structure of parishes, boundaries, parish names and styles parish councils, councillor numbers, electoral arrangements, consequential matters and implementation. Per guidance, any maps produced for the document should be no smaller than 1:10,000 scale.

The minimum requirement for the TOR is to specify and publish the area to be reviewed. Any amendments to the TOR also have to be published, so from a practical perspective it is best to publish a full rather than minimal TOR.

If the CGR is in response to a petition or application, the TOR must state the relevant proposals. This does not limit the scope of the CGR to include other matters / areas.

TOR allows the principal council to set out policy on councillor numbers – there must be 5 minimum in a parish council in law. There is no maximum figure.

The TOR must be adopted by the principal council.

The TOR must be sent to the County Council in a 2-tier area.

Consultation

“Reasonable periods” of consultation should be built into any CGR with stakeholders. However, legislation only specifies who should be consulted, not when or how.

A full review of all parish areas and electoral arrangements will require a longer consultation period with a wider range of consultees. A review in response to reducing councillor numbers in a specific parish may require a shorter timeframe and targeted consultation.

Under Section 93 (3) the principal council must consult;

- a. Local electors for the area under review.
- b. Any other party or body which appears to the principal council to have an interest in the review.

Other bodies may include local businesses, local public and voluntary organisations (charities, schools).

Any representations received should be taken into account by the principal authority. Representations should be made available via a variety of channels.

Under Section 93 (5) the principal council must consider the wider picture of community governance. This includes resident associations and community forums. The principal council must take these bodies into account.

Note: There is no requirement to write to every local government elector. Nor is there a requirement to conduct a poll. There is also no provision allowing the principal council to use the electoral register for consultation purposes.

A public awareness strategy for any review is recommended to ensure there is more public awareness generally.

Draft Recommendations

The following should be included in any draft recommendations.

- Vital statistics including precept, electoral, electoral forecasts (5 years)
- Present area arrangements (boundaries) an electoral arrangements.
- Publication of all representations received, including any explanatory notes required.
- Arguments and justifications for making any recommendations.

Arguments and recommendations should meet compliance with three legal tests;

1. Do recommendations reflect the identifies and interests of the area under review.
2. Do the recommendations provide / support effective convenient local government.
3. Account has been taken on other arrangements for community representation and engagements.

As soon as is practicable, the council must publish its recommendations and inform persons interested in them, per Section 93 (7) LG&PIHA 2007.

Further Consultation

Once draft recommendations are published, the principal council should undertake a further consultation.

It is good practice to ask the original respondents for comment on the specifics. To keep respondents focussed, questionnaires or specific response forms maybe helpful.

The county council should be consulted in two-tier areas.

The principal council will need to demonstrate they have considered the responses and any suggestions for alternative arrangements.

Final Recommendations

The principal council should confirm its revised recommendations and reasoning.

The principal council should confirm and publish it's extend to give effect to those recommendations with its reasons for doing so and inform persons interested in them, per Section 96 (2) LG&PIHA 2007.

Again, the following should be included in any recommendations.

- Vital statistics including precept, electoral, electoral forecasts (5 years)
- Present area arrangements (boundaries) an electoral arrangements.
- Publication of all representations received, including any explanatory notes required.
- Arguments and justifications for making any recommendations.
- Reasoning for rejection of alternatives.

Arguments and recommendations should meet compliance with three legal tests;

4. Do recommendations reflect the identifies and interests of the area under review.
5. Do the recommendations provide / support effective convenient local government.
6. Account has been taken on other arrangements for community representation and engagements.

A period of time for final comments should be allowed.

The principal council must publicise how they have given effect of the review.

Reorganisation Order

Where changes to existing arrangements have been made, a 'reorganisation order' must be issued if applicable. A map must be included with this. Further information on what should be included in such an order can be found in DCLG guidance. A copy of this order must be deposited at the council's principal office for public inspection. Its existence must be publicised (see note above).

The Commencement date of the new arrangements coming into force should be stated.

As soon as is practicable the following must be informed of the order being made:

- Secretary of State for DLUHC
- LGBCE
- ONS
- Director General of the Ordnance Survey
- Any other principal council to which the order area relates to.

The principal council must provide the following to each of the below.

- 2 copies order and maps: Secretary of State for DLUHC.
- 2 copies order and maps: LGBCE.
- Maps: Ordnance Survey, Registrar General, Land Registry, VOA, Boundary Commission for England, Electoral Commission.
- Info only: ONS, principal councils affected