

Guidance on Community Governance Reviews – Extract

Criteria for undertaking a community governance review

52. Section 93 of the 2007 Act requires principal councils to ensure that community governance within the area under review will be:
53. When considering the criteria identified in the 2007 Act, principal councils should take into account a number of influential factors, including:
54. In considering this guidance, the impact on community cohesion is linked specifically to the identities and interests of local communities. Size, population and boundaries are linked to both but perhaps more specifically to community governance being effective and convenient.

The identities and interests of local communities

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 'place-shaping', 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.

Effective and convenient local government

62. The Government believes that the effectiveness and convenience of local government is best understood in the context of a local authority's ability to deliver quality services economically and efficiently, and give users of services a democratic voice in the decisions that affect them.

63. 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.

64. In responding to the requirement for effective and convenient local government, some parish councils are keen, and have the capacity to take on more in the provision of services. However, it is recognised that not all are in position to do so. The 2007 Act provides a power of well-being to those parish councils who want to take on more, giving them additional powers to enable them to promote the social, economic and environmental well being of their

areas. Nevertheless, certain conditions must be met by individual parish councils before this power is extended to them.

65. Wider initiatives such as the Quality Parish Scheme and charters agreed between parish councils and principal councils also help to give a greater understanding of securing effective and convenient local government. In such cases, parish and town councils which are well managed and good at representing local views will be in a better position to work closely with partner authorities to take more responsibility for shaping their area's development and running its services.

Factors for consideration

66. When reviewing community governance arrangements, principal councils may wish to take into account a number of factors, to help inform their judgement against the statutory criteria.

The impact on community cohesion of community governance arrangements

67. Setting up parishes and parish councils clearly offers the opportunity to strengthen community engagement and participation, and generate a positive impact on community cohesion. In conducting community governance reviews (whether initiated by itself or triggered by a valid petition), the principal council should consider the impact on community cohesion when deciding whether or not to set up a parish council.

68. Britain is a more diverse society – ethnically, religiously and culturally – than ever before. Today's challenge is how best to draw on the benefits that migration and diversity bring while addressing the potential problems and risks to cohesion. Community cohesion is about recognising the impact of change and responding to it. This is a fundamental part of the place-shaping agenda and puts local authorities at the heart of community building.

69. In its response to the recommendations of the Commission on Integration and Cohesion the Government has defined community cohesion as what must happen in all communities to enable different groups of people to get on well together. A key contributor to community cohesion is integration which is what must happen to enable new residents and existing residents to adjust to one another.

70. The Government's vision of an integrated and cohesive community is based on three foundations:

- People trusting one another and trusting local institutions to act fairly

71. And three key ways of living together:

- A shared future vision and sense of belonging

- A focus on what new and existing communities have in common, alongside a recognition of the value of diversity
- Strong and positive relationships between people from different backgrounds.

72. The Commission on Integration and Cohesion's report, *Our Shared Future*, is clear that communities have expert knowledge about their own circumstances and that actions at the local level contribute to achieving integration and cohesion, with local authorities well placed to identify any pressures. The Commission reports that policy makers and practitioners see civic participation as a key way of building integration and cohesion – from ensuring people have a stake in the community, to facilitating mixing and engendering a common sense of purpose through shared activities. The 2006 White Paper's proposals for stronger local leadership, greater resident participation in decisions and an enhanced role for community groups contribute to promoting cohesion.

73. Community cohesion is about local communities where people should feel they have a stake in the society, and in the local area where they live by having the opportunity to influence decisions affecting their lives. This may include what type of community governance arrangements they want in their local area.

74. The 2007 Act requires principal councils to have regard to the need to secure that community governance reflects the identity and interests of local communities; the impact on community cohesion is linked strongly to it. Cohesion issues are connected to the way people perceive how their local community is composed and what it represents, and the creation of parishes and parish councils may contribute to improving community cohesion. Community governance arrangements should reflect, and be sufficiently representative of, people living across the whole community and not just a discrete cross-section or small part of it. It would be difficult to think of a situation in which a principal council could make a decision to create a parish and a parish council which reflects community identities and interests in the area and at the same time threatens community cohesion. Principal councils should be able to decline to set up such community governance arrangements where they judged that to do so would not be in the interests of either the local community or surrounding communities, and where the effect would be likely to damage community cohesion.

75. As part of a community governance review a principal council should consider whether a recommendation made by petitioners will undermine community cohesion in any part of its area.

76. Challenges to community cohesion are often very local in nature and because of their knowledge of local communities, local authorities are in a good position to assess these challenges. As for the other considerations set out in this guidance, principal councils will wish to reach a balanced judgement in taking community cohesion into account in community governance arrangements.

Size, population and boundaries of a local community or parish

77. Size, population and boundaries of a local community or parish are linked to aspects of both principal criteria as identified in the 2007 Act, but perhaps more specifically to community governance being effective and convenient. Often it is factors such as the size, population and boundaries which influence whether or not it is going to be viable to create a parish council. Parishes must fall within the boundaries of a single principal council's area.

78. The Local Government Commission for England in its 1993 Report *Renewing Local Government in the English Shires* makes the point that there is a long history of attempts to identify ideal minimum and maximum sizes for local authorities. Instead its preference was for authorities to be based on natural communities and reflecting people's expressed choices. This is even truer today, particularly at the most local level of government. Nevertheless, the size of communities and parishes remains difficult to define.

79. Parish councils in England currently vary greatly in size from those with a handful of electors with some representing hamlets of around 50 people to those in towns with well over 40,000 electors. Geography and natural boundaries; population size; and to an extent 'council size' (the term used by the LG BCE to describe the number of councillors who are elected to a local authority) may influence how small or large a parish council can be.

80. The general rule should be that the parish is based on an area which reflects community identity and interest and which is of a size which is viable as an administrative unit of local government. This is generally because of the representative nature of parish councils and the need for them to reflect closely the identity of their communities. It is desirable that any recommendations should be for parishes or groups of parishes with a population of a sufficient size to adequately represent their communities and to justify the establishment of a parish council in each. Nevertheless as previously noted, it is recognised that there are enormous variations in the size of parishes, although most parishes are below 12,000 in population.

81. A parish council should be in a position to provide some basic services and many larger parishes will be able to offer much more to their local communities. However, it would not be practical or desirable to set a rigid limit for the size of a parish whether it is in a rural or urban area, although higher population figures are generally more likely to occur in urban areas. Equally, a parish could be based on a small but discrete housing estate rather than on the town within which the estate lies.

82. There may be cases where larger parishes would best suit the needs of the area. These might include places where the division of a cohesive area, such as a Charter Trustee town (see paragraphs 133 to 134), would not reflect the sense of community that needs to lie behind all parishes; or places where there were no recognisable smaller communities.

83. As far as boundaries between parishes are concerned, these should reflect the “no-man’s land” between communities represented by areas of low population or barriers such as rivers, roads or railways. They need to be, and be likely to remain, easily identifiable. For instance, factors to consider include parks and recreation grounds which sometimes provide natural breaks between communities but they can equally act as focal points. A single community would be unlikely to straddle a river where there are no crossing points, or a large area of moor land or marshland. Another example might be where a community appeared to be divided by a motorway (unless connected by walkways at each end). Whatever boundaries are selected they need to be, and be likely to remain, easily identifiable.

84. In many cases a boundary change between existing parishes, or parishes and unparished areas, rather than the creation of an entirely new parish, will be sufficient to ensure that parish arrangements reflect local identities and facilitate effective and convenient local government. For example, over time, communities may expand with new housing developments. This can often lead to existing parish boundaries becoming anomalous as new houses are built across them resulting in people being in different parishes from their neighbours.

85. A review of parish boundaries is an opportunity to put in place strong boundaries, tied to firm ground detail, and remove anomalous parish boundaries. Since the new boundaries are likely to be used to provide the building blocks for district ward, London borough ward, county division and parliamentary constituency boundaries in future reviews for such councils, it is important that principal councils seek to address parish boundary issues at regular intervals.

Parish meetings and parish councils

86. Under the Local Government Act 1972 all parishes, whether or not they have a parish council, must have a parish meeting. In many parishes the requirement to have a parish meeting takes the form of at least one annual meeting, or more often several meetings during each year, organised (where one exists) by the parish council or if not by the parish meeting itself. The parish meeting of a parish consists of the local government electors for the parish, and as such local electors are invited to attend these meetings. Parish meetings have a number of functions, powers and rights of notification and consultation. The trustees of a parish meeting hold property and act on its behalf. Depending on the number of local government electors in the parish, there are different rules about whether or not a parish council must be created for the parish, or whether it is discretionary.

87. Where principal councils are creating new parishes, the 2007 Act requires them to make recommendations about whether or not a new parish should be constituted in their area. New parishes can be constituted in a number of different ways, including by creating a parish in an area that is not currently parished, amalgamating two or more parishes and separating part of a parish, with or without aggregating it with parts of other parishes.

88. Section 94 of the 2007 Act applies in relation to these recommendations. It places principal councils under a duty to recommend that a parish should have a council in parishes which have 1000 electors or more. In parishes with 151 to 999 electors the principal council may recommend the creation of either a parish council or a parish meeting. In parishes with 150 or fewer electors principal councils are unable to recommend that a parish council should be created and therefore only a parish meeting can be created. The aim of these thresholds is to extend the more direct participatory form of governance provided by parish meetings to a larger numbers of electors. Equally, the thresholds help to ensure that both the population of a new parish for which a council is to be established is of sufficient size to justify its establishment and also that local people are adequately represented.

89. One of the reasons for these differing thresholds is that the Government recognises the difficulty which sometimes exists in small parishes, in particular, in managing to get sufficient numbers to stand for election to the parish council. However, the thresholds identified above do not apply to existing parish councils. If the community governance review concludes that the existence of the parish council reflects community identities and provides effective and convenient local government, despite the small number of electors, then it can recommend that the parish council should continue in existence. So, where an existing parish of 150 or less electors already has a parish council with the minimum number of five parish councillors it can continue to have a parish council.

90. If a principal council chooses to establish a parish council, or if an existing parish whose boundaries are being changed has a parish council, the principal authority must consult on, and put in place the necessary electoral arrangements for that parish.
(See Chapter 5 Electoral Arrangements.)

Recommendations and decisions on the outcome of community governance reviews

91. Community governance reviews will make recommendations on those matters they have considered, as defined by the terms of reference set at the start of the review.

92. A principal council must make recommendations as to:

- a) whether a new parish or any new parishes should be constituted;
- b) whether existing parishes should or should not be abolished or whether the area of existing parishes should be altered; or
- c) what the electoral arrangements for new or existing parishes, which are to have parish councils, should be.

93. It may also make recommendations about:

- a) the grouping or degrouping of parishes;

- b) adding parishes to an existing group of parishes; or
- c) making related alterations to the boundaries of a principal councils' electoral areas.

94. In deciding what recommendations to make the principal council must have regard to the need to secure that community governance reflects the identities and interests of the community in that area and is effective and convenient. The 2007 Act provides that it must also take into account any other arrangements (apart from those relating to parishes and their institutions) that have already been made, or that could be made, for the purposes of community representation or community engagement.

95. The recommendations must take account of any representations received and should be supported by evidence which demonstrates that the recommended community governance arrangements would meet the criteria set out in the 2007 Act. Where a principal council has conducted a review following the receipt of a petition, it will remain open to the council to make a recommendation which is different to the recommendation the petitioners wished the review to make. This will particularly be the case where the recommendation is not in the interests of the wider local community, such as where giving effect to it would be likely to damage community relations by dividing communities along ethnic, religious or cultural lines.

96. In making its recommendations, the review should consider the information it has received in the form of expressions of local opinion on the matters considered by the review, representations made by local people and other interested persons, and also use its own knowledge of the local area. It may be that much of this information can be gained through the consultation which the council will have held with local people and also the council's wider engagement with local people on other matters. In taking this evidence into account and judging the criteria in the 2007 Act against it, a principal council may reasonably conclude that a recommendation set out in a petition should not be made. For example, a recommendation to abolish or establish a parish council, may negatively impact on community cohesion, either within the proposed parish area, or in the wider community within which it would be located, and therefore should not be made.

97. The aim of the 2007 Act is to open up a wider choice of governance to communities at the most local level. However, the Government considers that there is sufficient flexibility for principal councils not to feel 'forced' to recommend that the matters included in every petition must be implemented.

98. Under the 2007 Act the principal council must both publish its recommendations and ensure that those who may have an interest are informed of them. In taking a decision as to whether or not to give effect to a recommendation, the principal council must have regard to the statutory criteria (see paragraph 51). After taking a decision on the extent to which the council will

give effect to the recommendations made in a community governance review, the council must publish its decision and its reasons for taking that decision. It must also take sufficient steps to ensure that persons who may be interested in the review are informed of the decision and the reasons for it. Who should be informed will depend on local circumstances. Publicising the outcome of reviews is dealt with in the next section on implementation.

Implementation of community governance reviews by order

99. There are a number of steps that a principal council must take to publicise the outcome of any review it has conducted, and to provide information about that outcome to the bodies it must notify following any reorganisation order it makes to implement the review. Community governance reviews should be conducted transparently so that local people and other local stakeholders who may have an interest are made aware of the outcome of the decisions taken on them and the reasons behind these decisions.

100. If the council implements the recommendations made in its review, there are other steps it is required to undertake. These include depositing copies of the reorganisation order⁵ which the principal council will need to draw up to give effect to its decisions. Besides depositing at its main office a copy of the reorganisation order, it should also deposit a map showing the effects of the order in detail which should be available for inspection by the public at all reasonable times (i.e. during normal working hours). The 2007 Act also requires the council to make available a document setting out the reasons for the decisions it has taken (including where it has decided to make no change following a community governance review) and to publicise these reasons.

101. The principal council must publicise how the council has given effect to the review, and that the order and map are available for public inspection as set above. Other means of publicity it may wish to consider are through publication on the council's website, in local newspapers, on notice boards in public places, and in local libraries, town halls or other local offices. In addition, after a principal council has made a reorganisation order, as soon as practicable, it must inform the following organisations that the order has been made:

- a) the Secretary of State for Communities and Local Government
- b) the LGBCE
- c) the Office of National Statistics
- d) the Director General of the Ordnance Survey
- e) any other principal council (e.g. a county council) whose area the order relates to.

102. The Audit Commission has statutory responsibility for appointing external auditors to all local councils in England. For the purposes of its audit appointment functions the Commission needs to be aware of changes emerging from community governance reviews. Therefore, principal councils should inform

the Audit Commission of any reorganisation orders made to implement the recommendations of community governance reviews.

103. Section 97 of the 2007 Act provides for regulations to make incidental, consequential, transitional or supplementary provision for the purposes of, or in consequence of, reorganisation orders. Two sets of regulations have been made under the 2007 Act, which apply to reorganisation orders - both came into force on 8 April 2008. The first of these, the Local Government (Parishes and Parish Councils) (England) Regulations 2008 No.625 make provisions in relation to matters such as the distribution of property and the rights and liabilities of parish councils affected by a reorganisation order. The second set, the Local Government Finance (New Parishes) Regulations 2008 No.626 deal with the setting of precepts for new parishes.

⁵ A copy of a model reorganisation order with different examples of recommendations can be viewed on the Communities and Local Government website. It may help principal councils to draw up reorganisation orders which could be adapted to their own needs and circumstances. Principal councils are not obliged to follow this example. It is offered on an advisory basis and principal councils will want to seek their own legal advice that any orders they produce meet the necessary legal requirements.

104. Section 99 of the 2007 Act provides for public bodies affected by reorganisation following a community governance review to make agreements about incidental matters and what those agreements may provide for. So as to ensure that a reorganisation order has effect subject to the terms of any such agreement, principal councils should make provision for this in the reorganisation order. An example provision has been included in the model reorganisation order which can be found on the Communities and Local Government website (see footnote 2).

Maps of parish changes and mapping conventions

105. To assist those who will have an interest in any recommendations made by the principal council when conducting a community governance review and to accompany the reorganisation order, clear high quality maps should be produced to a standard equivalent to using Ordnance Survey large scale data as a base. Maps can be graphically presented at a reduced scale for convenience but preferably no smaller than 1:10,000 scale. Each recommendation and order should be depicted on a map or maps. The mapping should clearly show the existing parish ward, parish, district or London borough boundaries and all proposed parish ward and parish boundaries in the area(s) affected, or given effect to in a reorganisation order.

106. It can be useful to include some positional information to identify the location of the area(s) in relation to the complete area of the principal council. A colour key can be included to clearly identify each boundary type. Where there are only proposed changes to an existing parish boundary alignment it can be helpful to show in translucent colour any areas to be transferred from one parish to another. This indicates clearly the extent of the proposed change. It can also be beneficial to add unique references to all areas of transfer to create a cross reference to the re-organisation order document. Applying a reference to each

order map should also be considered so that a link is created with the re-organisation order.

Abolishing parishes, and dissolving parish councils

- 117 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 (see paragraph 90 -97). Regulations⁷ 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.
- 118 Section 88 of the 2007 Act provides for a community governance review to recommend the alteration of the area of, or the abolition of, an existing parish as a result of a review. The area of abolished parishes does not have to be redistributed to other parishes, an area can become unparished. However, it is the Government's view that it would be undesirable to see existing parishes abolished with the area becoming unparished with no community governance arrangements in place.
- 119 The abolition of parishes should not be undertaken unless clearly justified. Any decision a principal council may make on whether to abolish a parish should not be taken lightly. Under the previous parish review legislation, the Local Government and Rating Act 1997, the Secretary of State considered very carefully recommendations made by principal councils for the abolition of any parish (without replacement) given that to abolish parish areas removes a tier of local government. Between 1997 and 2008, the Government rarely received proposals to abolish parish councils, it received only four cases seeking abolition and of these only one was approved for abolition by the Secretary of State.
- 120 Exceptionally, there may be circumstances where abolition may be the most appropriate way forward. Under the 2007 Act provisions, the principal council would need to consider local opinion, including that of parish councillors and local electors. It would need to find evidence that the abolition of a parish council was justified, and that there was clear and sustained local support for such action. A factor taken into account by the Government in deciding abolition cases, was that local support for abolition needed to have been demonstrated over at least a period equivalent to two terms of office of the parish councillors (i.e. 8 years), and that such support was sufficiently informed. This means a properly constituted parish council should have had an opportunity to exercise its functions so that local people can judge its ability to contribute to local quality of life.
- 121 Where a community governance review 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.

- 122 In future, principal councils will wish to consider the sort of principles identified above in arriving at their decisions on whether or not to abolish a parish council. In doing so, they will be aware that decisions about community governance arrangements, including decisions for the abolition of a parish council, may attract a challenge by way of judicial review.
- 123 The 2006 White Paper underlined the Government's commitment to parish councils as an established and valued form of neighbourhood democracy with an important role to play in both rural, and increasingly urban, areas.
- 124 Section 10 of the Local Government Act 1972 makes provision for the dissolution of parish councils in parishes with very low populations, but not for the de-parishing of the area. Recommendations for the dissolution of a parish council which is not in this position are undesirable, unless associated either with boundary changes which amalgamate parishes or divide a parish or with plans for a parish to be grouped with others under a common parish council (see paragraphs 112 to 115). Recommendations for changing a parish area (or part of a parish area) into an unparished area are also undesirable unless that a