

REVIEWS OF PARISHES AND RELATED MATTERS – LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH ACT 2007

TERMS OF REFERENCE

INTRODUCTION

Setting the Context

The Council has resolved to undertake a Community Governance Review of the existing parishes of Egremont, Beckermet, Haile, Ponsonby and Lowside Quarter.

In undertaking the Review, the Council will be guided by Part 4 of the Local Government and Public Involvement in Health Act 2007, the relevant parts of the Local Government Act 1972, Guidance on Community Governance Reviews issued in accordance with section 100(4) of the Local Government and Public Involvement in Health Act 2007 by the Department of Communities and Local Government and The Electoral Commission in April 2008, and the following regulations which guide, in particular, consequential matters arising from the Review: Local Government (Parishes and Parish Councils) (England) Regulations 2008 (SI2008/625); Local Government Finance (New Parishes) Regulations 2008 (SI2008/626).

The Council is required to have regards to Guidance on Community Governance Reviews issued by the Secretary of State for Communities and Local Government. This Guidance was published in April 2008.

Section 81 of the Local Government and Public Involvement in Health Act 2007 requires the Council to publish its Terms of Reference in a Review. The Terms of Reference will be published on the Council's website and by publication in local newspapers.

Why is the Council undertaking the Review?

The Council is undertaking a Community Governance Review at this time because existing parishes do not reflect actual communities.

What is a Community Governance Review?

A Community Governance Review is a review of the whole or part of the district/borough area to consider one or more of the following:

- Creating, merging, altering or abolishing parishes;
- The naming of parishes and the style of new parishes;

- The electoral arrangements for parishes (the ordinary year of election; council size; the number of councillors to be elected to the council, and parish warding), and
- Grouping parishes under a common parish council or de-grouping parishes.

Parish governance in our area

The Council wants to ensure that parish governance in our District/Borough continues to be robust, representative and enabled to meet the challenges that lie before it. Furthermore, it wants to ensure that there is clarity and transparency to the areas that parish councils represent and that the electoral arrangements of parishes – the warding arrangements and the allocations of councillors – are appropriate, equitable and readily understood by their electorate.

The government has also emphasised: “Ultimately, the recommendations made in a community governance review ought to bring about improved community engagement, more cohesive communities, better local democracy and result in more effective and convenient delivery of local services.”

Who undertakes a review?

The Review will be undertaken by the Parish Review Working Party of the Council.

Officer and Contact details are as follows:

Tim Capper – Telephone 01946 598526, email tcapper@copelandbc.gov.uk
 Stephanie Shaw – Telephone 01946 598535, email sshaw@copelandbc.gov.uk

CONSULTATION

How the Council proposes to conduct consultations during the review

The Council has drawn up and now publishes this Terms of Reference document. This document lays out the aims of the review, the legislation that guides it and some of the policies that the Council considers important in the review.

In coming to its Recommendations in a Review, the Council will need to take account of the views of local people. The Act requires the Council to consult the local government electors for the area under review and any other person or body who appears to have an interest in the Review and to take the representations that are received into account by judging them against the criteria in the Local Government and Public Involvement in Health Act 2007.

The Council will consult on the review using the Council’s website and through local Parish Council’s and any other community groups as appropriate.

In accordance with the Act, representation received in connection with the Review will be taken into account, and steps will be taken to notify consultees of the outcome of the Review.

A borough/district council must notify the county council that a review is to be undertaken and its terms of reference and must consult the county council. Copeland Borough Council will consult Cumbria County Council on the Review.

A timetable of the Review

Publication of this Terms of Reference formally begins the review, and the review must be completed within 6 months.

Action	Timetable	
Terms of Reference are published		14 th October 2009
Introductory stage – submissions are invited		15 th October 2009
Draft proposals are prepared		15 th October 2009
Draft proposals are published		15 th October 2009
Consultations	8 Weeks	
Final Proposals are prepared		Week Commencing 4 th January 2010
Final proposals are published		Week Commencing 4 th January 2010
Publish the Recommendations		18 th January 2010
Council publishes the Reorganisation Order	thereafter	31 st March 2010

ELECTORATE FORECASTS

The electorate and electorate forecasts for the district/borough

The Council has used the Register of Electors of December 2008 in providing the existing parish / parish ward electorate figures. These are presented in Annex A.

When the Council comes to consider the electoral arrangements of the parishes in its area, it is required to consider any change in the number or distribution of the electors which is likely to occur in the period of five years beginning with the day the review starts. Electorate forecasts have been prepared using extant planning permissions, the Local Plan / the Local Development Framework to project the five years electorate forecast.

It is the government's guidance that these forecasts should be made available to all interested parties as early as possible in the review process, ideally before the formal commencements of the review so that they are available to all who may wish to make representations. These are presented in Annex A.

THE PRESENT STRUCTURE OF PARISHES AND THEIR ELECTORAL ARRANGEMENTS

Present structures of parish governance in our area

The Borough of Copeland is divided into 28 Parishes and an un-parished area in Whitehaven.

PARISH AREAS

The legislation requires that the council must have regard to the need to secure that community governance within the area under review:

- Reflects the identities and interests of the community area, and
- Is effective and convenient, and
- Takes into account any other arrangements for the purposes of community representation or community engagement in the area.

PARISHES

- the Council is anxious to ensure that electors should be able to identify clearly with the parish in which they are resident because it considers that this sense of identity and community lends strength and legitimacy to the parish structure, creates a common interest in parish affairs, encourages participation in elections to the parish council, leads to representative and accountable government, engenders visionary leadership and generates a strong, inclusive community with a sense of civic values, responsibility and pride;
- the council considers that parishes should reflect distinctive and recognisable communities of interest, with their own sense of identity; the feeling of local community and the wishes of local inhabitants are primary considerations in this Review;
- the Council is anxious to balance carefully the considerations of changes that have happened over time, through population shifts or additional development for example, and that have led to a different community identity with historic traditions in its area.
- the Council notes the governments Guidance that community cohesion should be taken into account in this Review
- the Council also notes the Government's strongly stated Guidance that it "expects to see a trend in the creation, rather than the abolition, of parishes" and that "the

abolition of parishes should not be undertaken unless clearly justified". The Council also notes that the Government also considers that, where existing parishes are abolished "it would be undesirable to see the area becoming unparished with no community governance arrangements in place".

BOUNDARIES

- the Council considers that the boundaries between parishes will normally reflect the 'no-man's lane' between communities represented by areas of low population or pronounced physical barriers. These barriers will be either natural or man-made: they might include coastal features, rivers, marshland, moorland and mountain or man-made features such as parks, canals, railways, major road and motorways – those barriers that oblige the residents of an affected area to have little in common with the remainder of the parish to which they may have been allotted;
- The Council considers that 'natural' settlements or settlements as they are defined in the Local Development Framework should not in normal circumstances be partitioned by parish boundaries;
- The Council will endeavour to select boundaries that are and are likely to remain easily identifiable.

VIABILITY

- The Council is anxious to ensure that parishes should be viable and should possess a precept that enables them to actively and effectively promote the well-being of their residents and to contribute to the real provision of services in their areas in an economic and efficient manner;
- Some parishes are anxious to take on the new power of well-being provided in the Local Government and Public Involvement in Health Act 2007; others hold Quality Parish status, while others are anxious to enter into charters with principal councils for the provision of local services. The Council sees these initiatives as important measures of effective and convenient local government and will respect them in this Review;
- The Council recognises that, in its rural area, a strong sense of community can prevail over an extensive but otherwise sparsely populated area. Parishes in these areas may have limited capacity to facilitate service provisions and effective local government; even so, arrangements in these areas, when they accord with the wishes of the inhabitants of the parish, will at least represent convenient local government.

ELECTORAL ARRANGEMENTS

What does 'Electoral Arrangements' mean?

- The ordinary year in which elections are held;
- The number of councillors to be elected to the council;
- The division (or not) of the parish into wards for the purpose of electing councillors;
- The number and boundaries of any such wards;

A Council for a parish

The legislation lays down the different duties that the Council has with regard to the creation of a council for a parish:

Where the number of electors is 1,000 or more – a parish council must be created

Where the number of electors is 151-999 – a parish council may be created with a parish meeting being the alternative form of parish governance;

Where the number of electors is 150 or fewer – a parish council is not created.

What considerations cover the number of parish councillors?

The government has advised, and this Council concurs that "it is an important democratic principle that each person's vote should be of equal weight so far as possible, having regard to other legitimated competing factors, when it comes to the elections of councillors."

Likewise, the Council notes that the number of parish councillors for each parish council shall not be less than five. There is no maximum number. There are no rules relating to the allocations of councillors. However, each parish grouped under a common parish council must have at least one parish councillor.

REORGANISATION OF COMMUNITY GOVERNANCE ORDERS AND COMMENCEMENT

The review will be completed when the Council adopts the Reorganisation of Community Governance Order. Copies of this Order, the map(s) that show the effects of the order in details, and the document(s) which set out the reasons for the decisions that the Council has taken (including where it has decided to make no change following a Review) will be deposited at the Council's offices, website, libraries, contact points.

In accordance with the Guidance issued by the government, the Council will issue maps to illustrate each recommendation at a scale the will not normally be smaller than 1:10,000. These maps will be deposited with the Secretary of State at the Department of Communities and Local Government and at the Councils office at Catherine Street, Whitehaven. Prints will also be supplied, in accordance with regulations, to Ordnance Survey, the Registrar General, the Land Registry, the Valuation Office Agency, the Boundary Commission for England and the Electoral Commission.

An indication of when the provisions of the Order would take effect should be given. For financial and administrative purposes this will be on 1 April in the designated year.

The electoral arrangements for a new or existing parish council will come into force at the next elections to the parish council. These might be the next ordinary local elections. However, where the next ordinary elections are not for some time, the Council might have resolved to modify or exclude the application of sections 16(3) and 90 of the Local Government Act 1972 to provide for the first election to be held in an earlier year, with councillors serving a shortened first term to allow the parish electoral cycle to return to that of the borough/district.

CONSEQUENTIAL MATTERS

General principles

The Council notes that a Reorganisation Order may cover any consequential matters that appear to the Council to be necessary or proper to give effect to the Order. These may include:

- The transfer and management or custody of property;
- The setting of precepts for new parishes;
- Provision with respect to the transfer of any functions, property, rights and liabilities;
- Provision for the transfer of staff, compensation of loss of office, pensions and other staffing matters.

In these matters, the Council will be guided by Regulations that have been issued following the 2007 Act.

In particular, the Council notes that the Regulations regarding the transfer of property, rights and liabilities require that any apportionments shall use the population of the area as estimated by the proper officer of the Council as an appropriate proportion.

DATE OF PUBLICATION OF THESE TERMS OF REFERENCE

14 October 2009