

COMMUNITY GOVERNANCE REVIEWS: SOME LESSONS FROM RECENT PRACTICE

Introduction

This document is based on information collected about some recent Community Governance Reviews, with particular reference to the experience of the local councils sector. It has been written primarily for the national and county associations of local councils, and for individual local (parish and town) councils. However, it should also be of interest to principal authorities who hold responsibility for these Reviews.

It is issued alongside five case studies from recent Reviews, chosen to reflect very different circumstances. They are:

- Affpuddle & Turnerspuddle (Dorset), where two parishes were merged;
- Huntingdonshire (Cambridgeshire), where various parish boundaries were altered;
- Morecambe (Lancashire), where a new town council was created;
- Lickey End (Worcestershire), where a parish council was abolished; and
- Southsea (Portsmouth), where a parish council was abolished.

In addition, some information was gathered about three locations within London, where the creation of local councils is being considered, though none has yet reached the stage of a Community Governance Review. These are briefly outlined in an annex.

It should be noted that Community Governance Reviews vary considerably, depending on the nature of the changes being considered and on local circumstances. The case studies cannot pretend to cover all that variation. Nonetheless, this research has been able to reach some conclusions and it raises a few issues about the review process.

Users of this note may also be interested in an earlier publication, *A guidance note and checklist for newly established local (parish and town) councils*, which was published by NALC on its website in January 2011 along with eight case studies. Those documents look at the early operational experience of local councils, at the stage subsequent to a Community Governance Review.

The review process

Legislation: the Local Government & Public Involvement in Health Act 2007 significantly changed the way that Community Governance Reviews are undertaken. It streamlined the process and delegated powers to principal authorities (districts and unitaries). They now have responsibility for undertaking such reviews, for deciding on the outcome and for implementing the outcome. Central government no longer has a direct role in the process.

One other important change brought in by the 2007 Act was that local communities can cause a principal authority to undertake a Community Governance Review, if they can organise a petition demonstrating sufficient support among the electorate for certain changes. Sufficient support is 50% signing in an area with fewer than 500 electors or 250 signing in an area with between 500 and 2,500 electors or 10% signing in an area with more than 2,500 electors. However, principal authorities are still able to refuse a review if one was held within the last 2 years or they are currently running a full review of their area.

Guidance: '*Guidance on Community Governance Reviews*' was published in updated form by the Department for Communities & Local Government and the Local Government Boundary Commission for England in 2010. Aimed largely at principal authorities, it offers advice about undertaking a review and implementing its recommendations. It can be accessed at: <http://www.communities.gov.uk/publications/localgovernment/guidancecommunitygovernance2010>

Also available on the Department's website is a model reorganisation order – the statutory instrument principal authorities must use to implement changes from a Community Governance Review. It can be accessed at: <http://www.communities.gov.uk/publications/localgovernment/modelreorganisationorder>

Criteria: the Act requires principal authorities to take account of certain criteria when conducting a review, namely:

- The identities and interests of the community in an area; and
- The effective and convenient governance of the area.

They are also advised to consider factors such as:

- What impact proposed community governance arrangements might have on community cohesion; and
- Whether the size (area), population and boundaries proposed for local governance make sense on the ground and contribute to the above criteria.

The guidance refers to people's sense of place and their historic attachment to areas.

Overall, local council arrangements should lead to: improved local democracy; greater community engagement; and better local service delivery.

Process: the main steps that surround a Community Governance Review are listed in the box below. Please note this is included for quick reference and is not formal guidance.

Trigger for a review	<ul style="list-style-type: none"> • A valid community petition; or • A principal authority's own decision.
Decision to hold a review	<ul style="list-style-type: none"> • A principal authority takes a formal decision; • Which can be to review all or a part of its area; • Though it must have valid grounds for refusal if there has been a petition.
Terms of reference	<ul style="list-style-type: none"> • A principal authority must draw up and publish terms; • Stating the matters and the geographic area to be covered; • Notifying other local authorities which have an interest.
Undertaking a review	<ul style="list-style-type: none"> • A principal authority must consult electors in affected area(s); • It should consult other bodies with an interest, including any affected local councils; • It must then consider any representations received.
Making recommendations	<ul style="list-style-type: none"> • Bearing in mind representations, the criteria and other factors; • Including alternative forms of governance in the area e.g. residents associations, neighbourhood forums; • The principal authority formally recommends an outcome from the review; • It must publish its recommendations and the reasons for them, informing those with an interest.
Implementing a review	<ul style="list-style-type: none"> • A principal authority makes a Reorganisation Order to put into effect any changes; • Which must include a detailed map of the boundaries; • It publishes the Order and map for public inspection; • It must inform specified bodies e.g. Ordnance Survey; • It should include in the Order any agreed incidental issues e.g. the transfer of assets.
Next steps	<ul style="list-style-type: none"> • An Order is often written to come into force the following April; • Typically a new local council is then elected in May.

The guidance expects that the core of the Community Governance Review process, from the publication of terms of reference through to the Reorganisation Order, can be completed within one year.

Project findings

From the perspective of the local councils' sector certain issues may be of particular interest and these are now considered.

Involvement of local councils in the review process

Community Governance Reviews are a principal authority responsibility and the evidence seen shows that their management and implementation is, indeed, strongly driven by those authorities. It is their democratic services teams who undertake the work and their Councillors (often sitting in full Council) who take the key decisions.

However, generally principal authorities appear to liaise closely with affected local councils as they consider holding a review and draw up its terms of reference. They also consult local councils formally, as interested parties, and in-the-main keep them regularly informed of review progress. Local councils often assist with promoting the public consultation stage.

Local councils can play a more pro-active role when it comes to initiating a review. Among the five case studies, it was Affpuddle & Turnerspuddle Parish Council which asked Purbeck District Council to review an anomalous boundary and it was Lickey End Parish Council which pressed Bromsgrove District Council to conduct a review for its abolition.

With one exception the case study local councils were content with their degree of engagement with these reviews. This is not an issue where the proposed changes are relatively straightforward or where the local council and principal authority share the same objective. But it can become so in more complex or contentious cases.

Involvement of county associations in the review process

The County Associations of Local Councils (CALCs) had only limited involvement in the five case studies. They were made aware of these particular reviews and were usually invited to comment at the consultation stage, which seems typical of Community Governance Reviews more widely. The central government guidance does not specifically mention CALCs when it refers to consulting 'interested parties'. However, the guidance is deliberately unspecific on this point and most principal authorities do in practice seem to consult them.

The view of contacted CALCs was generally that their limited involvement in these case studies was acceptable and realistic given their own resource constraints. They need to focus their effort on the more complex or contentious cases. Examples elsewhere were cited where CALCs had provided much more significant input or support, particularly for community action groups keen to have a new local council created in their area and especially where this view is not shared by the principal authority.

Support given by principal authorities

The extent to which community groups or existing local councils receive active support from principal authorities during the Community Governance Review process seems to depend, crucially, on whether they hold the same view about the preferred outcome.

In most cases they did and many in the local councils' sector praised the way that principal authorities handled those reviews. In Morecambe the community action group received advice to help it follow the necessary procedures for engaging the community, putting together a petition and proposing parish boundaries. Some case studies demonstrate the importance of the relationship with the relevant ward Councillor (or Councillors). They can act as a bridge with other principal authority Councillors and having their support when review decisions are being taken obviously counts for a lot.

The local councils' sector and community groups held very different views about their principal authorities where they were said to be seeking different review outcomes. Examples beyond the case studies were cited of principal authority literature circulated to communities which was felt to be one-sided. Again, political support (or hostility) can be crucial. The review which abolished Southsea Town Council was seen by some as highly politicised.

Implications of the 2007 legislation

A number of the Community Governance Reviews examined took place because new legislation (the Local Government & Public Involvement in Health Act 2007) had delegated review decisions to principal authorities. Purbeck District Council was willing to manage a review for a modest boundary change once the process and decision was within its gift.

The process required to comply with the 2007 Act is also streamlined. There were some initial complications as this new approach was introduced (see Huntingdonshire), but since then the review system does indeed appear to have speeded up. Attempts to establish a Morecambe Town Council, which started before the legislative change, made relatively slow progress until that process altered and could be completed locally by Lancaster City Council. That said, Community Governance Reviews still seem to take the best part of a year.

So the new review process has simplified and speeded up the creation of new local councils and amendments made to existing local councils. However, evidence from Lickey End and Southsea is that it has equally simplified and speeded up the process for abolishing local councils. Principal authorities in both these areas had, previously unable to get central government agreement to abolition, could quickly consider them again once the 2007 Act came into force. It may be these were unusual cases, stored up from the pre-2007 system, and that few others like them will now appear.

One other important difference since the 2007 Act is that communities now have more power. If they can put together a valid petition, it must be acted upon and the principal authority is under a duty to conduct a Community Governance Review. Of course, this is only the start of the process, but it is a significant change from the pre-2007 system where the decision was essentially in the hands of the principal authority.

“If you [the community] really feel you need something changed you can at least now go to them [the principal authority] with some pressure.” – a county association chief executive

County associations involved with the two cases of local council abolition both noted that the review system established in 2007 contains no right of appeal (other than going down the route of a full judicial challenge). They raise an interesting question, whether the delegation of review decisions to the local level should have some inbuilt safeguard.

Use of the review guidance and criteria

The principal authorities in the case study areas had mostly made use of the central government guidance document, supplementing this with their own experience and knowledge of reviews. They broadly saw that guidance as helpful, though Portsmouth City Council noted it didn't directly address situations where a local council was being abolished. That document is ostensibly aimed at principal authorities, but is certainly worth reading by any local council facing a Community Governance Review.

Review documentation written by officers in principal authorities and examined during this research makes frequent and accurate reference to the decision-making criteria and considerations which are outlined in the guidance (and in some cases by the Act) – see page 2 above. Perhaps inevitably, in the most contentious case (Southsea) some take the view that it was politics more than the criteria which swung the outcome. Interestingly, this case included the broadest assessment of the criteria by officers at the principal authority.

More typically, whilst the criteria are noted in principal authority review papers (as something to be considered), they are not assessed systematically or in any depth. There might be an expectation that some evidence about those criteria would be provided to those taking decisions. One principal authority said that had the review been more complex it would probably have undertaken further analysis.

Scope of the reviews

A final observation is that four of the five case studies and the bulk of other Community Governance Reviews known about were partial reviews – that is, they dealt with just part of a principal authority's area. The Huntingdonshire case study was the exception, but even

that could be said to have been largely a tidying-up exercise to re-align certain parish boundaries so they fitted better with current settlement patterns and new infrastructure.

It appears that principal authorities are, by and large, using their new powers to address particular local council issues, rather than taking a strategic look at community governance across the area. This, of course, would be more work for them. The national guidance suggests it would be good practice for principal authorities to undertake a review of their whole area every 10 to 15 years, though probably less often in areas with very low populations. It goes on to suggest that “in the interests of effective governance” they consider looking at the whole area rather than conducting piecemeal reviews. It will be interesting to see if more whole area reviews happen as the new legislation settles down.

Forward look

This research has confirmed how varied Community Governance Reviews can be, depending on the change in governance proposed, the type of area involved and the local context.

However, if the cases examined are typical, it could be said that reviews tend to fall into two varieties. Most prove straightforward and uncontentious, raising few issues about the outcomes, the involvement of the local councils’ sector and the system introduced by the 2007 Act. Unfortunately, a minority prove complex and divisive, with the result that their outcomes are contested. It should be noted, though, that the pre-2007 system also produced some contested and complex reviews, the difference being that decisions then were taken nationally rather than locally.

It may be, now, that certain types of Community Governance Review will become more common and others less so. This might be because:

- The Localism Bill (at the time of writing) and the wider policy drive to bring about more active and engaged communities means more communities in unparished areas campaign for a local council in their area. This could be mainly in unparished urban areas, including examples within London (see the annex);
- The emphasis placed on the local community level could also lead to more calls for local council de-mergers. This was certainly cited as a trend in one county examined by this research, where individual villages would like a local council more focused on their needs and are unhappy being part of a larger local council area (probably with its main focus on another settlement);
- This research has found some evidence that longstanding concerns about certain parish boundaries, or even the existence of certain local councils, have been tackled since 2007 by principal authorities using their newly delegated powers. That flurry of cases may now subside;

- As time passes more principal authorities may consider it appropriate to undertake a full review of their area. This stock-take of community governance arrangements may be most likely in areas that have been subject to development and population change. Yet it seems unlikely that most principal authorities will do this every 10 to 15 years as the guidance suggests.

Another question is whether the streamlined and delegated system created by the 2007 Act will make Community Governance Reviews more frequent overall. Communities might be more alive to the possibility of having a local council and hence more interested in calling for reviews. Principal authorities may have mixed views; the review system has been made easier for them, but with reducing budgets they may still prefer not to divert resources onto reviews. Most of the interest seems likely to come from the bottom-up.

Concluding suggestions for the local councils' sector are that:

1. Local councils who are or are hoping to be subject to a Community Governance Review would do well to familiarise themselves with the national guidance, so they can engage with their principal authority with an understanding of the process it must follow and the criteria that should inform its decisions;
2. Local councils should make the most from their working relationship with the Ward Councillor (or Councillors) during a review. Early discussions to gain their support should help them to influence the direction and outcome of the review;
3. County associations (CALCs) might try to agree with principal authorities (districts and unitaries) that, where there is review, they will always be informed at the outset and invited to comment at the consultation stage. If a Charter Agreement exists between principal authority and the local councils' sector this could be included;
4. That said, given resource constraints in county associations, the research confirms that it makes sense for them to target their support at community groups or existing local councils involved with more complex or contentious reviews. Simply being available to advise should be sufficient elsewhere. Some principal authorities might also value calling on their CALC's experience of reviews from neighbouring districts;
5. County associations can also play a very important promotional role, by helping to ensure that local communities in unparished areas are aware they can now bring about a Community Governance Review, if they can put together a valid petition;
6. County associations may also feel well placed, given their overview of local governance arrangements, to tell a principal authority when they think it should

undertake a full Community Governance Review of its area. For instance, where they are aware of various parishing or boundary issues emerging across the area;

7. The 2007 Act provided for the creation of local councils within Greater London. This was a potentially significant development and the National Association of Local Councils (NALC) will no doubt wish to continue monitoring closely the experience in those parts of London which are closest to a Community Governance Review. There will be important learning, whatever the outcome of those reviews;
8. NALC and the county associations may want to monitor reviews in large urban areas more generally, to see how criteria in the national guidance are interpreted and used by principal authorities when deciding review outcomes. Very urban settings can raise difficult questions about residents' sense of place, appropriate boundaries and the impact on community cohesion. However, the simple fact of being in an urban areas is not a justifiable consideration;
9. NALC will note that some county associations think the review system should contain a right of appeal against principal authority decisions. It seems unlikely this would be introduced currently, as it would mean amending the 2007 Act and the political momentum is for less central intervention in local decisions. However, at the very least NALC might log contentious cases so they can assess, over time, their frequency and whether this is an issue worth reconsideration.

This document was written for the National Association of Local Councils (NALC) by Brian Wilson Associates and David Atkinson Consulting.

Thanks are due to Chris Borg at NALC for his management of the project and his timely advice. Equally, to all those in local councils, county associations of local councils and principal authorities who provided information about the case study areas and the areas within London. It should be noted that this document does not necessarily represent their views and any errors are the author's.

May 2011

Annex: Progress towards Community Governance Reviews in London

Queen's Park in Westminster

The campaign for a Queen's Park Community Council was formally launched in Summer 2010 and is the most advanced in London. It is led by the Queen's Park Neighbourhood Forum, which previously received Neighbourhood Renewal funding from central government. Paddington Development Trust acts as a facilitator for the campaign, though it makes it clear the campaign is led by the residents' Forum.

The campaign is, in part, a response to the cutting of Local Area Agreement reward grant funding in 2010, which resulted in the loss of much of the infrastructure underpinning the Forum. The Forum is well established and represents a good cross-section of the area's 20,000 or so population. It did not want to lose the sense of local democracy, community involvement and cohesion which had built up during the years of Neighbourhood Renewal funding. There is also a feeling that the area is pioneering the ambitions of the Big Society.

A range of options were considered by the Forum, as a means of continuing its work. The community council (i.e. local council) model was chosen because it reflected the Forum's desire to act strategically, to engage with Westminster City Council on a statutory basis and to have access to funding through a precept. The proposed boundary is the same as that for the Queen's Park ward.

The campaign for a community council is now seeking to trigger a formal Community Governance Review. Through local outreach work, including door knocking and meetings, the campaign has secured the 800 signatures (or 10% of the electorate) it requires for its petition to be accepted. That petition is due to be handed over to the principal authority in May 2011.

Talks have been held with the Chief Executive of Westminster City Council and with an adviser to the council Leader. The campaign is emphasising the benefits for the principal authority, as well as the good news story that would be generated by becoming London's first local council.

Nevertheless, this trailblazing role brings its own limitations. It means that there are very few organisations to turn to with a similar experience. NALC has provided helpful advice and the Trust have talked to those who were involved with the Andover Town Council campaign.

The Forum are now starting to think about how best to ensure their views are heard during the consultation phase of the Community Governance Review and, longer term, about the development of shadow arrangements for the community council set-up phase.

London Fields in Hackney

Residents of the London Fields and Broadway Market area, in the London Borough of Hackney, have started a movement for a London Fields Community Council. The campaign was formally launched at a meeting in February 2011, at which residents heard presentations from NALC about the process for triggering a Community Governance Review and from nearby Chatsworth Road about neighbourhood planning.

Signatures are currently being collected in order to petition the Borough for a Community Governance Review. Local residents have set up a website which sets out the arguments in favour of establishing a local council and describes the main steps for doing so.

This campaign cites the following as reasons for having a new community council:

- A general feeling of remoteness from decisions currently being made about the area;
- Development pressures, especially on the east side of London Fields, which people feel they have little control over;
- The disaffection of some young people and a lack of local positive activities for them;
- A lack of service provision on some of the area's housing estates.

It is argued that a community council would deliver:

- More influence over things that matter to local people;
- Councillors who live locally and a Community Clerk who can fight their corner;
- Better services for those living on the housing estates;
- A local slice of the Local Infrastructure Levy (from planned local developments), which would reduce any precept;
- Running some community and leisure facilities, retaining proceeds from their use;
- A chance to bid to run other local services e.g. managing the Fields and licensing the market;
- The development of other community facilities in the locality.

London Borough of Camden

This is an interesting example, because it was driven by the principal authority rather than by a local residents' campaign.

In 2009 the London Borough of Camden undertook a wide review of options for new local governance arrangements across its area. This was done partly in response to the 2007

Local Government & Public Involvement in Health Act, which allowed for the creation of local councils within Greater London.

A cross-party Working Group of Councillors was established to investigate proposals, which included having local councils, having a directly elected Mayor and having single member wards. It considered the relationship with other community engagement mechanisms in the Borough. It was also asked to take account of some previous recommendations from a review of area forums. Three existing Parish Councillors and some senior officers from NALC attended one of the Working Group's meetings, to give their views and experiences of how local councils operate.

The Borough also consulted with all of its Councillors and with some 3,500 residents who had expressed an interest in governance and community empowerment issues. That consultation found that most of these residents were against the introduction of a directly elected Mayor, against having single member wards and against the creation of local councils. In effect, they wished to retain the status quo.

The Working Group, therefore, concluded that the Borough should not initiate a Community Governance Review with proposals to establish local councils. Camden's full Council endorsed that view later in 2009, when dealing with other reforms to the Borough's constitution. No further work on this issue has been undertaken.