

These notes refer to the Local Government and Public Involvement in Health Act 2007 (c.28) which received Royal Assent on 30 October 2007

LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4: Parishes

Introduction

180. **Part 4** of, and Schedule 5 to, the Act devolve power from central government to local government and communities, enabling principal councils (London boroughs, district councils or county councils in unitary county areas) to put in place appropriate arrangements for the governance of their areas at community level. Local people are also able to initiate a review of community governance by petitioning their principal council.
181. Parish councils and parish meetings will be able to change the style by which they are known. In this part all references to parish meetings are those where there is no parish council for that parish. Eligible parish councils will also be given a power to promote the economic, social or environmental well-being of their area.

Chapter 1: Parishes

Section 75: Parishes: alternative styles

182. This section amends the Local Government Act 1972 by inserting new provisions and making other amendments to existing sections.
183. Section 11A provides that new groups of parishes which are created by order under section 11(1) of the Local Government Act 1972 must use the same alternative style. A grouping containing a mixture of styles will not be permitted. The new style will be reflected in the name of the council and its meetings and also in the titles of trustees, chairman, vice-chairman and councillors.
184. Section 11B requires a de-grouping order to provide for the style of a parish to be preserved when it is de-grouped.
185. Section 12A allows a parish council or a parish meeting to resolve have a style.
186. Section 12B allows a common parish council of an existing group of parishes to change the style of the group.
187. Section 17A sets out the alternative styles. A parish will continue to be able to have the status of a town although it may not also have an alternative style.

Section 76: Appointed councillors

188. This section amends sections 15 and 16 of the Local Government Act 1972 to ensure chairman and vice-chairman of parish councils are chosen from among the elected

councillors rather than those who have been appointed. The section also inserts a new section 16A into that Act.

189. Section 16A allows a parish council to appoint individuals to be councillors. The new section allows the Secretary of State to make provision in regulations about appointed councillors. It is expected that this power will be used to specify the kinds of individual who may be appointed as councillors - for example representatives of key community groups or young people. In exercising a function under or by virtue of this section, parish councils must have regard to any guidance issued by the Secretary of State about the exercise of that function.

Chapter 2: Power to Promote Well-Being

Section 77: Extension of power to certain parish councils

190. This section adds an eligible parish council to the list of bodies in Part 1 of the Local Government Act 2000 which have the power to promote the economic, social or environmental well-being of their area. The Secretary of State has a power to prescribe by order the conditions which must be met by a parish council in order for it to be an eligible parish council for the purposes of this provision.

Section 78: Community strategies

191. Under the Local Government Act 2000, councils which have the power of well-being are also required to produce community strategies, to which they must have regard when using that power. This section exempts eligible parish councils from the need to produce their own community strategies. Instead it requires them to have regard to the strategies of the relevant principal authorities when exercising the power of well-being.

Chapter 3: Reorganisation

Key terms used

Section 79: Community governance reviews

192. This section defines a community governance review as a review of the whole or part of the area of a principal council for the purpose of making recommendations of the kind set out in sections 93 to 98. It requires the council to comply with the provisions in the Act relating to community governance reviews and with the terms of reference of the review.
193. In a two-tier area, a principal council must notify the county council that a community governance review is being conducted and of the terms of reference of the review including any modification of those terms.

Section 80: Community governance petitions

194. This section provides for local government electors to petition their principal council to conduct a community governance review.
195. To be valid, a community governance petition must meet the conditions in section 82 (3) to (6) as far as they are applicable. These include conditions about the number of local government electors who must sign the petition, the area that petitioners wish to see considered as part of a review and the specifying of recommendations which the petitioners wish a community governance review to consider making.

Section 81: Terms of reference of review

196. This section allows for a principal council to determine the terms of reference under which a community governance review must be undertaken and requires the terms of

reference to specify the area under review. A principal council must publicise the terms of reference.

Undertaking community governance reviews

Section 82: Council's power to undertake review

197. This section gives a principal council the power to undertake a community governance review.

Section 83: No review being undertaken: duty to respond to petition

198. **Section 83** is concerned with a case in which a principal council receives a valid community governance petition which relates to the whole or part of its area and, at the time the petition is received, the council is not carrying out a community governance review. In such a case, the council must undertake a review that has terms of reference that allow for the petition to be considered. However, this duty does not apply if the council has in the previous two years concluded a community governance review and in the council's opinion the area to which the petition relates covers the whole or a significant part of the area to which the review related.

Section 84: Review being undertaken: duty to respond to petition

199. This section is concerned with a case in which a principal council receives a community governance petition which relates to any part of its area and, at the time the petition is received, the council is in the course of undertaking a community governance review, the area to which the petition relates being wholly outside the area currently under review.

200. It sets out the following options from which the council can choose when deciding how to deal with the petition:

- The first option is for the council to modify the terms of reference of the current review to allow the recommendations made in the petition to be considered;
- The second option is for the principal council to undertake a separate review which has terms of reference that allow for the petition recommendations to be considered; and
- The third option is to modify the terms of reference of the current review, to undertake a separate review and 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 to be considered.

201. However, the council does not have to choose from any of these options if it has in the previous two years concluded a community governance review and, in the council's opinion, the area to which the petition relates covers the whole or a significant part of the area to which the review related.

Section 85: Power to respond to petition

202. This section specifies the cases in which a principal council receives a valid petition relating to the whole or part of its area but is not required to conduct a community governance review. The cases are where on the date that the petition is received:

- The council is not undertaking a review, but, has in the previous two years concluded a review and in the council's opinion the area to which the petition relates covers the whole or a significant part of the area to which the completed review related

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- The council is undertaking a community governance review and the petition area is wholly outside the area under review and the council has concluded a previous community governance review in the previous two years that in the council's opinion the area to which the petition relates covers the whole or a significant part of the area to which the previous review related
 - The council is undertaking a community governance review of part of its area, and the area to which the petition relates is not wholly outside the area under review.
 - The council is undertaking a community governance review of part of its area, and the area to which the petition relates to the whole of the council's area.
 - The council is undertaking a community governance review of the whole of its area, and the area to which the petition relates to the whole or part of the council's area.
203. In each of these cases, the principal council can decide to undertake a review or modify the terms of reference of an existing review or take no action.

Reorganisation of community governance

Section 86: Reorganisation of community governance

204. This section provides for principal councils to implement by order the outcome of a community governance review, with the exception of related alterations to district ward or county division boundaries which are implemented by the Electoral Commission. The section also stipulates that the agreement of the Electoral Commission must be obtained before an order can be made, changing protected electoral arrangements.
205. Electoral arrangements are considered "protected" where:
- the electoral arrangements were made or altered under section 17 of the Local Government Act 1992 or section 14 of the Local Government Rating Act 1997; and
 - the order was made within a five year period ending with the start of the review.

Recommendations of review

Section 87: Constitution of new parish

206. This section requires a community governance review to recommend either to create a new parish or not, and sets out the different ways that such an area can be created.
207. A community governance review which recommends the constitution of a new parish must also make recommendations as to the geographical name of that area, whether the parish should be known by an alternative style and recommendations as to whether or not there should be a parish council.

Section 88: Existing parishes under review

208. This section provides for a community governance review to recommend the abolition or alteration of an existing parish as a result of a community governance review. The council could also recommend that no change be made to the existing parish. The area of abolished parishes does not have to be redistributed to other parishes.
209. *Subsections (3) and (4)* specify that a principal council conducting a community governance review must include a recommendation as to whether or not the geographical name of the existing parish should be changed and whether or not parishes should have a parish council.
210. *Subsection (5)* prevents principal councils from making a recommendation to change the style of an existing parish.

Sections 89 and 90: New or retained councils: consequential recommendations

211. These sections require a community governance review which recommends the establishment or continuation of a parish council to also make recommendations as to the electoral arrangements for that council.

Section 91: Grouping or de-grouping parishes

212. This section provides for a community governance review to recommend the grouping or de-grouping of parishes following a community governance review. The section also requires a review to consider the electoral arrangements of a grouped parish council or of a parish council established after a parish is de-grouped.

Section 92: County, district or London borough: consequential recommendations

213. The section requires a principal council to consider related alterations to the boundaries of electoral areas of county and/or district councils when conducting a community governance review. It provides for the principal council to make recommendations to the Electoral Commission for changes to the boundaries of any division of a county, or ward of a district or London borough in connection with a recommendation made as part of a community governance review.
214. **Section 92** also gives the Electoral Commission the power to make an order giving effect to any recommendations it receives under *subsection (2)*. The Electoral Commission must notify the council that made the recommendations and, in any two-tier area, the county council of whether or not it has given effect to the recommendations made. If it makes an order, the Electoral Commission must provide both the principal council and county council (if any) with two copies of the order.

Duties of council undertaking review

Section 93: Duties when undertaking a review

215. This section specifies duties which a principal council must comply with when conducting a community governance review.
216. *Subsection (8)* requires principal councils to complete the review within 12 months.

Section 94: Recommendations to create parish councils

217. This section directs principal councils to create parish councils 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 new parishes, or existing parishes without a parish council, that have 150 or fewer electors principal councils are unable to create a parish council and therefore parish meetings must be created. This does not apply to existing parishes which have a parish council. The aim of this section is to extend the more direct participatory form of governance provided by parish meetings to a larger number of electors.

Section 95: Electoral recommendations: general considerations

218. This section is concerned with the considerations that the principal council must have regard to when making recommendations about electoral arrangements for a parish council. These considerations include whether a parish should be divided into wards.

Publicising outcome of review

Section 96: Publicising outcome

219. This section details the steps that a principal council is required to take to secure that persons who may be interested are informed of the decision of the council as

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to whether or not to give effect to the recommendations of a community governance review, and the reasons for that decision. These steps include the publication of the decision and reasons. It also lists the bodies a principal council must notify following any reorganisation order it makes.

Miscellaneous

Section 97: Supplementary regulations

220. This section allows the Secretary of State, by regulations, to make any supplementary incidental, consequential, transitional or supplementary provisions that may be needed to give effect to the new arrangements.

Section 98: Orders and regulations under this Chapter

221. This section allows principal councils, by order, to make any supplementary incidental, consequential, transitional or supplementary provisions that may be needed to give effect to the new arrangements. This includes provision with respect to the transfer of functions, property, rights and liabilities.
222. *Subsection (6)* provides for orders to include provision for the exclusion or modification of section 16 (3) or 90 of the Local Government Act 1972 and section 36 of the Representation of the People Act 1983.
223. *Subsection (7)* allows the Electoral Commission to make such incidental, consequential, transitional or supplementary provisions it believes are necessary when making an order under section 98.

Section 99: Agreements about incidental matters

224. This section 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.
225. *Subsection (5)* provides definitions of terms used within this section. This includes the definition of “public body” which has the same meaning as in section 16.

Section 100: Guidance

226. This section provides for the Secretary of State and the Electoral Commission to issue guidance relating to the conduct of community governance reviews, the making of recommendations about electoral arrangements and about changes to electoral areas of principal councils affected by recommendations made as part of a review and the implementation of recommendations made as part of the reviews. It requires principal councils to have regard to this guidance.

Section 102: Interpretation

227. This section defines terms used within this chapter and includes a list of the electoral arrangements of parish councils that principal councils can make recommendations on as part of a community governance review.