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Local Government and Public Involvement in Health Act 2007

2007 CHAPTER 28

PART 4

PARISHES

VALID FROM 13/02/2008

CHAPTER 3

REORGANISATION

Key terms used

79 Community governance reviews

- (1) A community governance review is a review of the whole or part of the principal council's area, for the purpose of making recommendations of the kinds set out in sections 87 to 92 (if, and so far as, those sections are applicable).
- (2) In undertaking a community governance review the principal council must comply with—
 - (a) this Chapter, and
 - (b) the terms of reference of the review.
- (3) A district council which is to undertake a community governance review must notify the county council for its area (if any)—
 - (a) that the review is to be undertaken, and
 - (b) of the terms of reference of the review (including any modification of those terms).

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80 Community governance petitions

- (1) A community governance petition is a petition for a community governance review to be undertaken.
- (2) A petition is not a valid community governance petition unless the conditions in subsections (3) to (6) are met (so far as they are applicable).
- (3) The petition must be signed as follows—
 - (a) if the petition area has fewer than 500 local government electors, the petition must be signed by at least 50% of the electors;
 - (b) if the petition area has between 500 and 2,500 local government electors, the petition must be signed by at least 250 of the electors;
 - (c) if the petition area has more than 2,500 local government electors, the petition must be signed by at least 10% of the electors.
- (4) The petition must—
 - (a) define the area to which the review is to relate (whether on a map or otherwise), and
 - (b) specify one or more recommendations which the petitioners wish a community governance review to consider making.
- (5) If the specified recommendations include the constitution of a new parish, the petition must define the area of the new parish (whether on a map or otherwise).
- (6) If the specified recommendations include the alteration of the area of an existing parish, the petition must define the area of the parish as it would be after alteration (whether on a map or otherwise).
- (7) If the specified recommendations include the constitution of a new parish, the petition is to be treated for the purposes of this Chapter as if the specified recommendations also include the recommendations in section 87(5) to (7).
- (8) If the specified recommendations include the establishment of a parish council or parish meeting for an area which does not exist as a parish, the petition is to be treated for the purposes of this Chapter as if the specified recommendations also include recommendations for such a parish to come into being (either by constitution of a new parish or alteration of the area of an existing parish).

81 Terms of reference of review

- (1) The terms of reference of a community governance review are the terms on which the review is to be undertaken.
- (2) The terms of reference of a community governance review must specify the area under review.
- (3) Sections 83 and 84 make further provision about the terms of reference of community governance reviews.
- (4) Subject to subsection (2), and sections 83 and 84, it is for a principal council—
 - (a) to decide the terms of reference of any community governance review which the council is to undertake; and
 - (b) to decide what modifications (if any) to make to terms of reference.

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- (5) As soon as practicable after deciding terms of reference, the principal council must publish the terms.
- (6) As soon as practicable after modifying terms of reference, the principal council must publish the modified terms.

Undertaking community governance reviews

82 Council's power to undertake review

A principal council may undertake a community governance review.

83 No review being undertaken: duty to respond to petition

- (1) This section applies if these conditions are met—
 - (a) a principal council is not in the course of undertaking a community governance review;
 - (b) the council receives a community governance petition which relates to the whole or part of the council's area.
- (2) The principal council must undertake a community governance review that has terms of reference that allow for the petition to be considered.
- (3) But the duty in subsection (2) does not apply if—
 - (a) the principal council has concluded a previous community governance review within the relevant two-year period, and
 - (b) in the council's opinion the petition area covers the whole or a significant part of the area to which the previous review related.

For further provision about this case, see section 85.

84 Review being undertaken: duty to respond to petition

- (1) This section applies if the following conditions are met—
 - (a) a principal council is in the course of undertaking a community governance review of part of the council's area (“the current review”);
 - (b) the council receives a community governance petition which relates to part of the council's area;
 - (c) the petition area is wholly outside the area under review.
- (2) The principal council must follow one of the options in subsection (4), (5) or (6).
- (3) But the duty in subsection (2) does not apply if—
 - (a) the principal council has concluded a previous community governance review within the relevant two-year period, and
 - (b) in the council's opinion the petition area covers the whole or a significant part of the area to which the previous review related.

For further provision about this case, see section 85.

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- (4) The first option mentioned in subsection (2) is for the principal council to modify the terms of reference of the current review so that they allow for the petition to be considered.
- (5) The second option is for the principal council to undertake a community governance review that—
 - (a) is separate from the current review, and
 - (b) has terms of reference that allow for the petition to be considered.
- (6) The third option is for the principal council to—
 - (a) modify the terms of reference of the current review,
 - (b) undertake a community governance review that is separate from the current review (“the new review”), and
 - (c) secure that (when taken together)—
 - (i) the terms of reference of the current review (as modified), and
 - (ii) the terms of reference of the new review,
 allow for the petition to be considered.

85 Power to respond to petition

- (1) In any of the following cases where a principal council receive a community governance petition, it is for the council to decide what action (if any) to take under section 82 (power to undertake review) or 81(4)(b) (power to modify terms of review) in response to that petition.
- (2) The first case is where—
 - (a) section 83 applies (no review being undertaken when petition received), but
 - (b) the duty in section 83(2) does not apply because of section 83(3) (no duty to respond to petition because previous review concluded in relevant two-year period).
- (3) The second case is where—
 - (a) section 84 applies (review being undertaken when petition received: petition area wholly outside area under review), but
 - (b) the duty in section 84(2) does not apply because of section 84(3) (no duty to respond to petition because previous review concluded in relevant two-year period).
- (4) The third case is where these conditions are met—
 - (a) a principal council is in the course of undertaking a community governance review of part of the council's area;
 - (b) the council receives a community governance petition which relates to part of the council's area;
 - (c) the petition area is not wholly outside the area under review.
- (5) The fourth case is where these conditions are met—
 - (a) a principal council is in the course of undertaking a community governance review of part of the council's area;
 - (b) the council receives a community governance petition which relates to the whole of the council's area.

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- (6) The fifth case is where these conditions are met—
- (a) a principal council is in the course of undertaking a community governance review of the whole of the council's area;
 - (b) the council receives a community governance petition which relates to the whole or part of the council's area.

Reorganisation of community governance

86 Reorganisation of community governance

- (1) This section applies if a community governance review is undertaken.
- (2) The principal council may, by order, give effect to the recommendations made in the review (except recommendations made to the Electoral Commission in accordance with section 92).
- (3) But such an order may not include provision giving effect to any recommendations to change protected electoral arrangements, unless the Electoral Commission agrees to that provision.
- (4) An order under this section must include a map showing in general outline the area affected by the order.
- (5) An order under this section may vary or revoke a provision of an order previously made under—
 - (a) this section,
 - (b) Part 1 of this Act,
 - (c) section 17 of the Local Government Act 1992 (c. 19), or
 - (d) section 16 or 17 of the Local Government and Rating Act 1997 (c. 29).
- (6) For the purposes of this section electoral arrangements are “protected” if—
 - (a) the electoral arrangements relate to the council of an existing parish,
 - (b) the electoral arrangements were made, or altered, by or in pursuance of an order under section 17 of the Local Government Act 1992 (c. 19) or section 14 of the Local Government and Rating Act 1997 (c. 29), and
 - (c) that order was made during the period of five years ending with the day on which the community governance review starts.

Recommendations of review

87 Constitution of new parish

- (1) A community governance review must make recommendations as to what new parish or parishes (if any) should be constituted in the area under review.
- (2) A new parish is constituted in any one of the following ways—
 - (a) by establishing an unparished area as a parish;
 - (b) by aggregating one or more unparished areas with one or more parished areas;
 - (c) by aggregating parts of parishes;
 - (d) by amalgamating two or more parishes;

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- (e) by separating part of a parish;
but the aggregation of one or more unparished areas with a single parish is not the constitution of a new parish.
- (3) For the purposes of subsection (2)—
 - “parished area” means an area which—
 - (a) is a parish, or
 - (b) is part of a parish;
 - “unparished area” means an area which—
 - (a) is not a parish, and
 - (b) is not part of a parish.
- (4) The following subsections apply if the review recommends that a new parish should be constituted.
- (5) The review must also make recommendations as to the name of the new parish.
- (6) The review must also make recommendations as to whether or not the new parish should have a parish council.
- (7) The review must also make recommendations as to whether or not the new parish should have one of the alternative styles.

88 Existing parishes under review

- (1) A community governance review must make the following recommendations in relation to each of the existing parishes under review (if any).
- (2) The review must make one of the following recommendations—
 - (a) recommendations that the parish should not be abolished and that its area should not be altered;
 - (b) recommendations that the area of the parish should be altered;
 - (c) recommendations that the parish should be abolished.
- (3) The review must make recommendations as to whether or not the name of the parish should be changed.
- (4) The review must make one of the following recommendations—
 - (a) if the parish does not have a council: recommendations as to whether or not the parish should have a council;
 - (b) if the parish has a council: recommendations as to whether or not the parish should continue to have a council.
- (5) But the review may not make any recommendations for the parish—
 - (a) to begin to have an alternative style (if it does not already have one), or
 - (b) to cease to have an alternative style, or to have a different alternative style, (if it already has one).
- (6) In this section—
 - (a) “existing parishes under review” means each of the parishes (if any) which are already in existence in the area under review;

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- (b) references to the alteration of an area of a parish are references to any alteration which is not the constitution of a new parish (within the meaning of section 87(2)).

89 New council: consequential recommendations

- (1) This section applies if, under a relevant provision, a community governance review makes recommendations that a parish should have a parish council.
- (2) The review must also make recommendations as to what electoral arrangements should apply to the council.
- (3) These are the relevant provisions for the purposes of this section—
 - (a) section 87 (new parishes);
 - (b) section 88 (existing parishes)

90 Council retained: consequential recommendations

- (1) This section applies if, under a section 88, a community governance review makes recommendations that a parish should continue to have a parish council.
- (2) The review must also make recommendations as to what changes (if any) should be made to the electoral arrangements that apply to the council.

91 Grouping or de-grouping parishes

- (1) A community governance review may make recommendations as to whether or not grouping or de-grouping provision should be made.
- (2) If the review recommends that grouping or de-grouping provision should be made, those recommendations must in particular include recommendations as to what changes (if any) should be made to the electoral arrangements that apply to any council affected by the provision.
- (3) The reference to grouping or de-grouping provision is a reference to provision equivalent to the provision of an order under section 11 of the Local Government Act 1972 (c. 70).

92 County, district or London borough: consequential recommendations

- (1) This section applies if a community governance review makes recommendations under any other provision of this Chapter.
- (2) The review may make recommendations to the Electoral Commission as to what related alteration (if any) should be made to the boundaries of the electoral areas of any affected principal council.
- (3) The Electoral Commission may by order give effect to recommendations made under subsection (2).
- (4) The Electoral Commission must notify each relevant principal council of whether or not the Commission have given effect to recommendations made under subsection (2).

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(5) If the Electoral Commission have given effect to the recommendations, they must also send each relevant principal council two copies of the order under this section.

(6) In this section—

“affected principal council” means any principal council whose area the community governance review relates to (including the council carrying out the review);

“related” means related to the other recommendations made under this Chapter.

“relevant principal council”, in relation to recommendations under subsection (2), means—

- (a) the principal council that made the recommendations, and
- (b) if the recommendations are made by a district council for an area for which there is a county council, the county council.

Duties of council undertaking review

93 Duties when undertaking a review

(1) The principal council must comply with the duties in this section when undertaking a community governance review.

(2) But, subject to those duties, it is for the principal council to decide how to undertake the review.

(3) The principal council must consult the following—

- (a) the local government electors for the area under review;
- (b) any other person or body (including a local authority) which appears to the principal council to have an interest in the review.

(4) The principal council must have regard to the need to secure that community governance within the area under review—

- (a) reflects the identities and interests of the community in that area, and
- (b) is effective and convenient.

(5) In deciding what recommendations to make, the principal council must take into account any other arrangements (apart from those relating to parishes and their institutions)—

- (a) that have already been made, or
- (b) that could be made,

for the purposes of community representation or community engagement in respect of the area under review.

(6) The principal council must take into account any representations received in connection with the review.

(7) As soon as practicable after making any recommendations, the principal council must—

- (a) publish the recommendations; and
- (b) take such steps as it considers sufficient to secure that persons who may be interested in the review are informed of those recommendations.

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- (8) The principal council must conclude the review within the period of 12 months starting with the day on which the council begins the review.

94 Recommendations to create parish councils

- (1) This section applies where a community governance review is required to make any of the following recommendations—
- (a) recommendations under section 87(6) as to whether or not a new parish should have a parish council;
 - (b) recommendations under section 88(4)(a) as to whether or not an existing parish should have a parish council.
- (2) If the parish has 1,000 or more local government electors, the review must recommend that the parish should have a council.
- (3) If the parish has 150 or fewer local government electors, the review must recommend that the parish should not have a council.
- (4) But subsection (3) does not apply if any part of the parish mentioned in subsection (1) is currently—
- (a) a parish which has a council, or
 - (b) part of such a parish.
- (5) If neither subsection (2) nor (3) applies, it is for the principal council to decide whether or not the parish should have a council.

95 Electoral recommendations: general considerations

- (1) This section applies to the principal council when deciding a recommendation of a kind listed in the following table.

| <i>Recommendation</i> | <i>Made under</i> |
|--|-------------------|
| What electoral arrangements should apply to a new parish council | Section 89(2) |
| What changes (if any) should be made to the electoral arrangements which apply to a parish council | Section 90(2) |

- (2) The principal council must consider the questions in subsection (3) when deciding whether to recommend that a parish should, or should not, be or continue to be divided into wards for the purpose of electing councillors.
- (3) Those questions are—
- (a) whether the number, or distribution, of the local government electors for the parish would make a single election of councillors impracticable or inconvenient;
 - (b) whether it is desirable that any area or areas of the parish should be separately represented on the council.
- (4) If the principal council decides to recommend that a parish should be divided into wards, the principal council must have regard to the factors in subsection (5) when considering—

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- (a) the size and boundaries of the wards, and
 - (b) the number of councillors to be elected for each ward.
- (5) Those factors are—
- (a) the number of local government electors for the parish;
 - (b) any change in the number, or distribution, of the local government electors which is likely to occur in the period of five years beginning with the day when the review starts;
 - (c) the desirability of fixing boundaries which are, and will remain, easily identifiable;
 - (d) any local ties which will be broken by the fixing of any particular boundaries.
- (6) If the principal council decides to recommend that a parish should not be divided into wards, the principal council must have regard to the factors in subsection (7) when considering the number of councillors to be elected for the parish.
- (7) Those factors are—
- (a) the number of local government electors for the parish;
 - (b) any change in that number which is likely to occur in the period of five years beginning with the day when the review starts.

Publicising outcome of review

96 Publicising outcome

- (1) This section applies if a community governance review is undertaken.
- (2) As soon as practicable after a principal council has decided to what extent it will give effect to the recommendations made in a community governance review, the council must—
 - (a) publish—
 - (i) that decision, and
 - (ii) the council's reasons for making that decision; and
 - (b) take such steps as the council considers sufficient to secure that persons who may be interested in the review are informed of that decision and those reasons.
- (3) The following subsections apply if the council makes a reorganisation order.
- (4) As soon as practicable after making the order, the council must deposit at its principal office—
 - (a) a copy of the reorganisation order, and
 - (b) a map which shows the effects of the order in greater detail than the map included in the order.
- (5) The council must make the copy of the order and the map available for public inspection at all reasonable times.
- (6) The council must publicise that the order and map are available for public inspection in accordance with subsection (5).
- (7) As soon as practicable after making the order, the principal council must inform all of the following that the order has been made—

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- (a) the Secretary of State;
- (b) the Electoral Commission;
- (c) the Office of National Statistics;
- (d) the Director General of the Ordnance Survey;
- (e) any other principal council whose area the order relates to.

Miscellaneous

97 Supplementary regulations

- (1) The Secretary of State may by regulations of general application make incidental, consequential, transitional or supplementary provision for the purposes of, or in consequence of, reorganisation orders.
- (2) Regulations under this section are to have effect subject to any provision made by a reorganisation order.

98 Orders and regulations under this Chapter

- (1) If a principal council makes a reorganisation order, the council must send—
 - (a) two copies of the order to the Secretary of State; and
 - (b) two copies of the order to the Electoral Commission.
- (2) If the Secretary of State makes regulations under section 97, he must send two copies of the regulations to the Electoral Commission.
- (3) A reorganisation order may include such incidental, consequential, transitional or supplementary provision as may appear to the principal council to be necessary or proper for the purposes of, or in consequence of, or for giving full effect to, the order.
- (4) A reorganisation order, or regulations under section 97, may include any of the following provision—
 - (a) provision with respect to the transfer and management or custody of property (whether real or personal);
 - (b) provision with respect to the transfer of functions, property, rights and liabilities.
- (5) Provision made under subsection (4)(b) may include any of the following—
 - (a) provision for legal proceedings commenced by or against any body to be continued by or against a body to whom functions, property, rights or liabilities are transferred;
 - (b) provision for the transfer of staff, compensation for loss of office, pensions and other staffing matters;
 - (c) provision for treating any body to whom a transfer is made for some or all purposes as the same person in law as the body from whom the transfer is made.
- (6) A reorganisation order, or regulations under section 97, may include provision for the exclusion or modification of the application of any of the following—
 - (a) section 16(3) or 90 of the Local Government Act 1972 (c. 70), or
 - (b) rules under section 36 of the Representation of the People Act 1983 (c. 2), whenever made.

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- (7) An order under section 92 may include such incidental, consequential, transitional or supplementary provision as may appear to the Electoral Commission to be necessary or proper for the purposes of, or in consequence of, or for giving full effect to, the order.

99 Agreements about incidental matters

- (1) Any public bodies affected by a reorganisation of community governance may from time to time make agreements with respect to—
- (a) any property, income, rights, liabilities and expenses (so far as affected by the order) of the parties to the agreement;
 - (b) any financial relations between the parties to the agreement.
- (2) Such an agreement may in particular provide—
- (a) for the transfer or retention of any property, rights and liabilities, with or without conditions, and for the joint use of any property;
 - (b) for the making of payments by any party to the agreement in respect of—
 - (i) property, rights and liabilities so transferred or retained;
 - (ii) such joint use; or
 - (iii) the remuneration or compensation payable to any person;
 - (c) for any such payment to be made by instalments or otherwise;
 - (d) for interest to be charged on any such instalments.
- (3) In default of agreement about any disputed matter, the matter is to be referred to the arbitration of a single arbitrator—
- (a) agreed on by the parties; or
 - (b) in default of agreement, appointed by the Secretary of State.
- (4) The arbitrator's award may make any provision that could be contained in an agreement under this section.
- (5) In this section—
- “disputed matter” means any matter that—
- (a) could be the subject of provision contained in an agreement under this section; and
 - (b) is the subject of a dispute between two or more public bodies that is not resolved by or under any order or regulations under this Chapter;
- “public body” has the same meaning as in section 16;
- “reorganisation of community governance” means any changes made by giving effect to a community governance review.

100 Guidance

- (1) The Secretary of State may issue guidance about undertaking community governance reviews.
- (2) The Electoral Commission may issue guidance about the making of recommendations under sections 89(2) or 90(2) (electoral arrangements for parish councils) or 92 (consequential recommendations about county, district or London borough councils).

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(3) The Secretary of State may issue guidance about giving effect to recommendations made in community governance reviews.

(4) A principal council must have regard to guidance issued under this section.

101 Consequential amendments

Schedule 5 (consequential amendments) has effect.

102 Interpretation

(1) This section applies for the purposes of this Chapter.

(2) The following expressions have the meanings given—

“alternative style” has the same meaning as in sections 9 to 16A of the Local Government Act 1972 (c. 70) (see section 17A of that Act);

“area under review”, in relation to a community governance review, means however much of the area of a principal council is subject to the review;

“community governance petition” has the meaning given by section 80;

“community governance review” has the meaning given by section 79;

“electoral arrangements”, in relation to a parish council, means all of the following—

(a) the year in which ordinary elections of councillors are to be held;

(b) the number of councillors to be elected to the council, or (in the case of a common council) the number of councillors to be elected to the council by each parish;

(c) the division (or not) of the parish, or (in the case of a common council) any of the parishes, into wards for the purpose of electing councillors;

(d) the number and boundaries of any such wards;

(e) the number of councillors to be elected for any such ward;

(f) the name of any such ward;

“local government elector” has the same meaning as in the Local Government Act 1972 (see section 270);

“petition area” means the area to which a community governance petition relates;

“principal council” means—

(a) a district council in England,

(b) a county council in England for an area in which there are no district councils, or

(c) a London borough council;

“reorganisation order” means an order under section 86;

“relevant two-year period”, in relation to receipt of a community governance petition, means the period of two years ending with the day on which the petition is received by the principal council;

“specified recommendations”, in relation to a community governance petition, means the recommendations—

(a) specified in the petition, or

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- (b) treated by section 80 as included in the recommendations specified in the petition;
- “terms of reference” has the meaning given by section 81.
- (3) A principal council “begins” a community governance review when the council publishes the terms of reference of the review.
- (4) A principal council “concludes” a community governance review when the council publishes the recommendations made in the review.
- (5) A principal council is “in the course of undertaking” a community governance review in the period between—
- (a) beginning the review, and
 - (b) concluding the review.
- (6) The terms of reference of a community governance review “allow for a community governance petition to be considered” if the terms of reference of the review are such that—
- (a) the area under review includes the whole of the petition area; and
 - (b) the recommendations to be considered by the review include all of the petition's specified recommendations.

Status:

Point in time view as at 30/12/2007. This version of this chapter contains provisions that are not valid for this point in time.

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to Local Government and Public Involvement in Health Act 2007. Any changes that have already been made by the team appear in the content and are referenced with annotations.