

COUNCIL

22 JULY 2021

COMMUNITY GOVERNANCE REVIEW – REVIEW OF PARISH ELECTORAL ARRANGEMENTS

Portfolio Holder: Councillor Rupert Turpin, Portfolio Holder for Business Management
Report from: Neil Davies, Chief Executive
Author: Jane Ringham, Head of Elections and Member Services

Summary

This report sets out matters for consideration regarding the conduct of a Community Governance Review and seeks approval of the terms of reference and other administrative matters associated with the review.

1. Budget and policy framework

- 1.1. The completion of a Community Governance Review and the associated decisions about the formation of a new Parish or revisions to the existing Parish arrangements is a matter for Council.

2. Background

- 2.1. The Local Government and Public Involvement in Health Act 2007 (as amended by the Legislative Reform (Community Governance Review) Order 2015), devolved decision-making powers relating to certain parish matters from central to local government. These powers include the creation and grouping of parishes and everything pertaining to their electoral arrangements.
- 2.2. This decision-making process is laid out in the Act as a Community Governance Review (CGR). It can be instigated in one of three ways: by a petition from local electors demanding a review; by the Principal Authority agreeing to a request for a review; or by a Principal Authority resolving to conduct a review.
- 2.3. The Local Government Boundary Commission for England (LGBCE) review of Medway has concluded and the final recommendations will come into effect for the Local and Parish elections in May 2023.

- 2.4. The LGBCE can make recommendations for changes to parish electoral arrangements as part of their review, but only where the parish councils are directly affected by their recommendations to changes to district wards. They are of the opinion that a Community Governance Review should be instigated for any proposals to change the total number of Councillors to be elected to a parish or any wardings of parishes.
- 2.5. Whilst none of the LGBCE recommendations have a direct impact on the electoral arrangements of the Parishes in Medway, it would seem prudent to undertake such a review as they have not been reviewed for a number of years. The last changes were made in 2002 when the Parishes of Frindsbury Extra and Hoo St Werburgh were revised. It is likely that at the very least the numbers of Parish Councillors should be reviewed to reflect expected increases in electorates in particular.

A Community Governance Review

- 3.1. A principal authority may undertake a CGR unprompted by a request, application or petition.
- 3.2. The Local Government and Public Health Involvement in Health Act 2007, Part 4 Chapter 3, paragraph 83(8) originally stated that “the principal council must conclude the review within the period of 12 months starting with the day on which the council begins the review.” However, the Legislative Reform (Community Governance Reviews) Order 2015 amended this to read that “the principal council must conclude the review within the period of 12 months starting with the day on which the council receives the community governance petition or community governance application” which appears to omit the circumstances where a principal authority chooses to undertake a review of its’ own accord.
- 3.3. The community governance review is concluded when the principal authority publishes the recommendations made in the review.
- 3.4. It is proposed to conclude the CGR and submit recommendations back to Full Council in July 2022, allowing a 12 month period from the date the Council approves the Terms of Reference.

4. Advice and analysis

Guidance and criteria to be used for a CGR

- 4.1. In undertaking the Review, the Council must 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. Also, the following regulations which guide, in particular, consequential matters arising from the Review: Local Government (Parishes and Parish Councils) (England) Regulations 2008 (SI2008/625) and the Local Government Finance (New Parishes) Regulations 2008 (SI2008/626).
- 4.2. The Council is obliged to take account of the necessary criteria when conducting the review, namely:
- The identities and interests of the community in the area
 - The effective and convenient governance of the area

and the Council should take into account influential factors such as the impact of community governance arrangements on community cohesion and the size, population and boundaries of a local community or parish.

- 4.3. The Council is also obliged to consult the local government electors for the area under review and any other person or body which appears to have an interest in the review and must take into account any representations received in connection with the review. The Guidance issued by the DCLG indicates that this might include local businesses, as well as local public and voluntary organisations.

Working Group

- 4.4. It is proposed that authority is delegated to the Assistant Director, Legal & Governance (ADLG) to conduct the CGR in consultation with an informal cross-party Member and officer working group. The ADLG and the working group will need to finalise the process, a communications and consultation strategy, consider the representations received and formulate the recommendations for consideration by Council on the outcome of the CGR. It is proposed that the report of the working group would be submitted to the meeting of Full Council in July 2022.
- 4.5. The group needs to be a size conducive to formulating recommendations. Officers recommend a group of no more than 6 Councillors; based on the normal proportionality rules this would result in a breakdown of membership across the two main political groups of 4:2. The officers would include the ADLG, the Head of Elections and Member Services, and relevant officers from the Communications, Finance and Legal Services teams.

- 4.6. To assist with the effective conduct of the working group, it is proposed that the rules for substitution of Councillors, set out in the Constitution, apply to the Councillors on the working group. It is therefore recommended that Rule 18 of the Council Rules regarding the Appointment of Substitute members be applied to the working group as follows:
1. All members of the Council may serve as substitute members of the working group in the absence of the appointed member.
 2. The political Groups shall substitute no more than one-half of their members at the working group (all figures to be rounded up to the nearest whole number).
 3. The substitute member shall:
 - (a) be from the same political group as the member who is unable to attend the meeting;
 - (b) not substitute for more than one member;
 - (c) not be a member of the working group already.
 4. Subject to any legal limits, a substitute member may attend, speak and vote as a member of the working group at the meeting.
 5. If the appointed member attends the meeting when he or she has already been substituted, he or she may not attend as a member of the working group.
- 4.7. One of the first things a principal council is obliged to do is to establish and publish terms of reference for the review.
- 4.8. Since the approval of the terms of reference cannot be delegated, the proposed terms of reference for the review are attached as Appendix 1 and Members are asked to approve it. Group Leaders were given the opportunity to comment on the draft terms of reference and these have been incorporated into the proposed document attached.

Sustainability

- 4.9. The informal working group will need to consider the sustainability implications of the proposals and outcome recommended and seek means to reduce any negative impacts.

Diversity

- 4.10. A Diversity Impact Assessment (DIA) will need to be completed once the details of the CGR are finalised and the working group will need to consider all the diversity issues such as accessibility arising from the CGR. This will be included in the report to Full Council in July 2022.

5. Risk management

5.1.

Risk	Description	Action to avoid or mitigate risk	Risk rating
Damage to reputation of the Council amongst local population and Government	Failure to undertake CGR in accordance with legislation and DCLG guidance	Establishment of informal working group to co-ordinate implementation of CGR comprising key officers and Members	D1

6. Consultation

- 6.1. All local government electors must be consulted as part of the CGR and the working group will consider the appropriate methods by which this will be undertaken. The views and comments received will be taken into consideration by the working group when they formulate their recommendations that will be reported back to Full Council at the end of the review.

7. Climate change implications

- 7.1. [The Council declared a climate change emergency in April 2019 \(https://democracy.medway.gov.uk/ieListDocuments.aspx?CId=122&MId=4160&Ver=4\)](https://democracy.medway.gov.uk/ieListDocuments.aspx?CId=122&MId=4160&Ver=4) - item 1038D refers and has set a target for Medway to become carbon neutral by 2050.
- 7.2. Efforts will be made to minimise the carbon footprint of the consultation exercise undertaken as part of this process by reducing the amount of paper used, for example.

8. Financial implications

- 8.1. There is no specific budget provision for the conduct of the CGR or the consultation process required. Officers have estimated that up to approximately £40,000 is required to undertake an appropriate consultation process and for the other costs associated with the CGR. It is difficult to estimate the costs without decisions having been made on the style and content of the consultation plan which will be agreed with the working group.
- 8.2. Officers have confirmed that the Council cannot seek to obtain funding for the CGR from the New Burdens Fund.
- 8.3. It is anticipated that the cost can be met from within the existing service budgets. However, any shortfall will be drawn down from the provision for local elections.

9. Legal implications

9.1. The legal implications for this matter are set out in the body of the report.

10. Recommendations

10.1 That Council:

(a) approves the establishment of an informal cross-party Member and officer working group as set out in paragraphs 4.4 to 4.8 of the report to undertake a Community Governance Review of Parish electoral arrangements.

(b) agrees to delegate authority to the Assistant Director, Legal & Governance to conduct the Community Governance Review in consultation with an informal cross-party Member and officer working group as set out in paragraph 4.4 to 4.8 of the report and to report back the outcome of the Review to Council;

(c) agrees that the rules for the appointment of substitute Councillors for the working group be as set out in paragraph 4.6 of the report; and

(d) agrees that the appointment of Councillors to serve on the working group should be made by the Chief Executive in accordance with the wishes of the relevant Group Leaders and Group Whips.

10.2. That Council approves the Terms of Reference for the Community Governance Review attached to this report as set out in Appendix 1 to the report.

10.3. That Council notes the likely maximum spend for the purpose of the conduct of the Community Governance Review, as set out in paragraph 8.1 of the report.

Lead officer contact

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Appendices

Appendix 1 – Terms of Reference of Working Group.

Background papers

None