



WYCOMBE
DISTRICT COUNCIL

Report For:	Regulatory and Appeals Committee
Meeting Date:	18 March 2019
Part:	Part 1 - Open

Title of Report:	COMMUNITY GOVERNANCE REVIEWS (CGRS)
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Wards affected:	The wards of Abbey, Booker and Cressex, Bowerdean, Disraeli, Micklefield, Oakridge and Castlefield, Ryemead, Sands, Terriers and Amersham Hill and Totteridge.
Reason for the Decision:	<p>To review the proposed Terms of Reference (attached at Appendix A) for the required Community Governance Reviews.</p> <p>Four petitions have been submitted all of which have been validated and found to contain the required number of signatures to trigger a Community Governance Review of the relevant area.</p> <p>The petitions fall under the provisions of 2007 Local Government and Public Involvement in Health Act for Community Governance Review petitions. The provisions of that legislation take precedence over the Council's petition scheme.</p> <p>This report presents proposed Terms of Reference for the reviews.</p>
Proposed Recommendations To Full Council:	That Members are invited to recommend Terms of Reference for the required reviews.
Monitoring Officer/ S.151 Officer Comments	Monitoring Officer: Relevant legal provisions and implications, including the need for consultation as part of the Community Governance Review process, are set out in the report. The Local Government and Public Involvement in Health Act 2007 imposes a statutory duty on the Council to conclude a community governance review not later than 12 months from its verification. Accordingly, of the four petitions which have recently been submitted to the Council, two of them, for the Totteridge and Micklefield areas, must be concluded by 10 December 2019. Whilst the anticipated submission of two further CGR petitions, which have now been received and validated, for the Sands area and the whole of the currently unparished area respectively, has

	<p>suggested it may be prudent to await them, so as to allow the Terms of Reference from a practical point of view to consider all four in as comprehensive a way as possible, the timetable for the latter two does not change, or extend, the timetable for the earlier two.</p> <p>S.151 Officer: Financial matters are referenced in the body of the report.</p>
Consultees:	In accordance with the statutory requirements in undertaking community governance reviews, the Council will undertake a consultation with the local government electors in the areas under review, and others which appears to the Council to have an interest in the review.
Options:	Members have a range of options with regard to the proposed Terms of Reference in terms of content.
Next Steps:	The recommendations of this Committee will be presented to the next Full Council meeting on 1 st April 2019.
Background Papers:	<p>Minutes of Full Council meeting 10 December 2018;</p> <p>2007 Local Government and Public Involvement in Health Act</p> <p>Joint Guidance on Community Governance Reviews from MHCLG and LGBCE.</p> <p>House of Commons Briefing Parish Councils: Recent Issues dated February 2019</p> <p>White Paper 2006</p>
Abbreviations:	<p>CGRs – Community Governance Reviews</p> <p>TORs – Terms of Reference of a Review</p> <p>Reorganisation Order – the Order made if a decision is made at the end of the review to make new local governance arrangements.</p> <p>The Council – Wycombe District Council (the Principal Council).</p>

Appendices to this report are as follows:

Appendix A – proposed terms of reference for the CGR of the unparished area of High Wycombe

Appendix B - Special Expenses revenue budgets for High Wycombe Town Committee for 2019/20

Detailed Report

Corporate Implications

1. This report is relevant to the Council's Corporate Plan objectives in relation to helping communities to work well together and achieving good governance and is also designed to ensure that governance is effective and efficient. The applicable law and guidance is set out within the report.

Purpose

2. The purpose of this report is to consider the Terms of Reference attached at Appendix A and decide whether they require amendment before being referred to Council on 1st April 2019.

Executive Summary

3. A district council has the power to undertake community governance reviews and make changes to local community governance arrangements.
4. The Council received petitions for the wards of Micklefield and Totteridge. These petitions were verified in December 2018 which triggered a Community Governance Review of those wards. The Council has an obligation to complete that review within 12 months of the 10th December 2018.
5. The Council has also received a petition for the Sands ward and the whole of the unparished wards of Wycombe District. These petitions have now also been verified. The Council has to consider whether to combine the Review of the whole of the unparished area with the review that was triggered in December in accordance with the legislation and guidance. The wards of Micklefield and Totteridge are within the unparished area. The Sands ward is also in that area.
6. The Council is required to publish the Terms of Reference for any review it carries out.

Background

7. A district council has the power to undertake community governance reviews and make changes to local community governance arrangements. Any review has to be undertaken with regard to the community governance review guidance issued jointly by (the former) Department for Communities and Local Government (DCLG) and the LGBCE (Local Government Boundary Commission for England) in 2010. This guidance is referenced as a background document to this report.

What is a community governance review?

8. A community governance review can consider a number of things including:
 - Creating, merging, altering or abolishing parishes including town councils;
 - The naming of parishes and the style of new parishes;
 - The grouping of parishes under a common parish council;
 - The electoral arrangements for parishes;
 - Council size i.e. the number of councillors and parish warding.

9. In undertaking any Review, the Council will be guided by the following legislation:
- Part 4 of the Local Government and Public Involvement in Health Act 2007;
 - Local Government (Parishes and Parish Councils) (England) Regulations 2008 (SI2008/625);
 - Local Government Finance (New Parishes) Regulations 2008 (SI2008/626);
 - Relevant parts of the Local Government Act 1972.

Criteria

10. When the CGR is completed it will be presented to the relevant Members for a final decision. If the Structural Changes Order is made before then, the transitional period will have begun and the Shadow Executive will be the relevant member body (see paragraph 31 below).
11. The deciding body will need to consider whether to make a Reorganisation Order. The recommendations of the CGR should aim to bring about improved community engagement, better local democracy and result in a more effective and convenient delivery of local services.
12. It is for the deciding body to consider whether they accept the recommendations of the CGR. If the CGR recommends that a parish or town council is established then the body will need to be satisfied that this will bring about improved community engagement, better local democracy and result in a more effective and convenient delivery of local services. If the Structural Changes Order is made, the Members will need to take into consideration the arrangements that will exist in the future i.e. when there is no local district council and when governance for the area will take the form of a single unitary council for Buckinghamshire.

Why Undertake a Review

13. Community governance reviews provide the opportunity for principal councils to review and make changes to community governance within their areas. It can be helpful to undertake community governance reviews in circumstances such as where there have been changes in population, or in advance of or as part of boundary reviews relating to principal councils. The Government has made clear in a 2006 White Paper and in the 2007 Act its commitment to parish councils and more recently conducted consultation in 2013 which resulted in changes to legislation to make it easier to establish parish councils.
14. The consultation briefing paper said
- ‘We believe that localism is best achieved when it is led by the local communities themselves. We see town and parish councils as playing a vital role in helping local people to make this happen; it is for this reason we want to support those neighbourhoods who want to set up a parish council.’
15. Principal councils should exercise their discretion, but it is good practice for a principal council to consider conducting a review every 10-15 years – except in the case of areas with very low populations when less frequent reviews may be adequate. Any changes to parished areas or the creation of new parish or town councils must be preceded by a community governance review and cannot happen without a review.

16. Reviews are normally undertaken because of one or more of the following reasons:
 - a) Changes in population;
 - b) Shifts in “natural settlements” caused by new development;
 - c) In reaction to specific or local issues which have now been raised;
 - d) In receipt of a valid petition;
 - e) In advance of a full review of the district or parish electoral arrangements;
 - f) At a request from the parish council or other interested party.
17. The Council has held Community Governance Reviews in relation to changes to the existing parished areas but it has not previously conducted a Community Governance Review of the unparished area of High Wycombe.
18. Community governance reviews should be undertaken in advance of other electoral reviews, so that the Local Government Boundary Commission for England in its review of local authority electoral arrangements can take into account any parish boundary changes that are made. The LGBCE can provide advice on its programme of electoral reviews but it is clear that there will be a Boundary Review after vesting day of the new Council and before the 2025 elections.
19. Members will be aware that the proposed Structural Changes Order provides for a reduction in the current number of Members and a change from the current wards to new wards based on the current county. This LGBCE review is likely to result in a further change to ward boundaries in order to ensure a consistent ratio of electorate to Members is achieved across the whole area. This will mean that parish areas are unlikely to align with future ward areas.
20. For administrative and financial purposes (such as setting up the parish council and arranging its first precept), changes resulting from a Community Governance Review will take effect on the 1 April following the date on which the Order is made in the year of an election. Electoral arrangements for a new or existing parish council will come into force at the first elections to the parish council following the Reorganisation Order. This would ordinarily be in May 2019, however it is likely that an order will be laid which will result in those elections being postponed until 2020.
21. Orders should be made sufficiently far in advance to allow preparation for the conduct of those elections to be made. In relation to a new parish council, the principal council may wish to consider whether, during the period between 1 April and the first elections to the parish council, it should make interim arrangements for the parish to be represented by councillors who sit on the principal council. For example, that the relevant Members representing the ward form an interim council.
22. The 2007 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. Furthermore if the Council undertakes a community governance review it must notify Buckinghamshire County Council (BCC) that a review is to be undertaken and of its Terms of Reference; BCC would also be consulted as part of the review.

Submitted Petitions

23. At the meeting of the Full Council held on Monday 10 December 2018, the following two petitions were handed in
 - a petition by the residents of Totteridge for a Community Governance Review with a view to forming a parish council in Totteridge.
 - a petition by the residents of Micklefield for a Community Governance Review with a view to forming a parish council in Micklefield.
24. A robust validation process was carried out, and the signatories to each petition were checked against the electoral register. The result of the validation process was that in both Micklefield and Totteridge the petitions contained the required number of valid signatories to trigger CGRs to be undertaken. The Council must therefore commence a Community Governance Review in relation to those wards.
25. At the Council meeting on 21st February 2019 a further two petitions were handed in:
 - A petition by the residents of Sands Ward for a Community Governance Review with a view to forming a parish council in Sands
 - A petition by the residents of the unparished area i.e. the wards of Abbey, Booker and Cressex, Bowerdean, Disraeli, Micklefield, Oakridge and Castlefield, Ryemead, Sands, Terriers and Amersham Hill and Totteridge with a view to forming a town council for the unparished area.
26. These petitions have now been verified through the same thorough process described for the previous petitions and both have now been confirmed as meeting the required number of signatures to trigger a review. The timescale for these petitions is 12 months from 21st February 2019.
27. The Council must therefore carry out Community Governance Reviews of the relevant areas.

Combining Community Governance Reviews

28. Where a review is already taking place and the principal council receives a community governance application or petition, there are certain obligations set out for what the Council must do. The reviews of Micklefield and Totteridge are already triggered and the Council should therefore consider whether to combine those reviews with those triggered by the later petitions. Given that the areas of three of the petitions coincide with a review of the whole of the unparished area it is proposed that a review of the unparished area which considers a number of matters including (but not limited to):
 - Whether a town council should be established for the whole of the unparished area
 - Whether two or more parish councils should be established for the whole of the unparished area (i.e. a patchwork of councils to cover the whole area)
 - Whether parishes should be established for parts of the unparished area (leaving some areas unparished)
 - Whether no parishes or town councils should be established for the area (leaving the whole of the area unparished).
 - It is also possible to consider enlarging the review to include additional adjacent areas. This would require a specific decision of the Council to undertake the review of that area because it is not the subject of a petition which has triggered the review.

29. The timescale of the review if it is to be combined as a single review of the unparished area will run from 10th December as that is the timeframe for the first review to be completed.
30. The 2007 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. Furthermore if the Council undertakes a community governance review it must notify Buckinghamshire County Council that a review is to be undertaken and of its Terms of Reference; BCC would also be consulted as part of the review.

Relationship to Local Government Reorganisation

31. The Council has been told by MHLCG that any community governance reviews should be completed prior to the date that this Council is abolished (31 March 2020). The transitional period begins when the Structural Changes Order comes into force. We do not know when that will be but it is likely to be around May 2019.
32. The Local Government (Structural Changes) (Transitional Arrangements) Regulations 2008 provide that the powers to implement the recommendations of proposals resulting from the review (including proposals to create new parish councils) during the transitional period will sit with the Shadow Authority. If the review, which will be undertaken by Wycombe District Council, is not completed until the transitional period has begun the Shadow Authority will receive the recommendations of the review. The powers which become those of the Shadow Authority are the powers under s86 and 96 to 100 Local Government and Public Involvement in Health Act 2007 including those which are to make a reorganisation order to give effect to the recommendations of the review.

Charter Trustees

33. The Local Government (Structural Changes) (Transitional Arrangements) Regulations 2008 provide that:

15.—(1) The following provisions of this regulation apply in any case where, in consequence of a reorganisation order, a city or town for which Charter Trustees have been constituted by or under any enactment becomes wholly comprised in a parish or in two or more parishes.

(2) On the date on which the first parish councillors for the parish or parishes (as the case may be) come into office—

(a) the Charter Trustees shall be dissolved;

(b) the mayor and deputy mayor (if any) shall cease to hold office as such;

(c) the appointment of any local officer of dignity shall be treated as if it had been made by the parish council;

(d) all property, rights and liabilities (of whatever description) of the charter trustees shall become property, rights and liabilities of the parish council; and

If the Shadow Executive decided to make a Reorganisation Order to create one or more parishes/town councils for the whole of the unparished area the Charter Trustee arrangement would therefore come to an end. Where part of the area remains unparished this would not be the case.

Terms of Reference for Reviews

34. Section 81 LG&PIHA 2007 requires the principal council to draw up terms of reference specifying the area under review. There is no legal requirement to consult on the Terms of Reference. The guidance identifies that:
'the terms should be appropriate to local people and their circumstances and reflect the specific needs of their communities.'
35. The 2007 Act requires the terms of reference to specify the area under review and the principal council to publish the Terms of Reference. If any modifications are made to the Terms of Reference, these must also be published.
36. The Government expects Terms of Reference to set out clearly the matters on which a community governance review is to focus. The local knowledge and experience of communities in their area which principal councils possess will help to frame suitable terms of reference.
37. Local people may have already expressed views about what form of community governance they would like for their area, and principal councils should tailor their Terms of Reference to reflect those views on a range of local issues. As stated above the recommendations made in a community governance review ought to bring about *'improved community engagement, better local democracy and result in more effective and convenient delivery of local services.'*

Options

38. As set out in the report, the Council are in receipt of four community governance petitions which have met the required number of valid signatories. Therefore, the Council has a duty to carry out community governance reviews and attached to this report as Appendix 'A' is a proposed Terms of Reference for those reviews based on a combined review for all four areas.
39. The options available to Members are therefore:
 - To carry out separate reviews relating to each of the four areas
 - To carry out a CGR in relation to the whole of the unparished area to incorporate the areas under the three ward based petitions.
40. Members have a wide range of options in relation to the content of the published Terms of Reference. Proposed Terms of Reference are attached to this report as Appendix 'A'. Members are invited to consider these Terms of References and any amendments they wish to make before the Terms of Reference are recommended to Full Council.
41. The Terms of Reference can include reference to a range of matters these would be likely to address similar matters to those covered by the Structural Change Orders in local government reorganisation and can include:
 - Transitional arrangements
 - Electoral arrangements
 - Governance arrangements
 - Finance and assets
 - Staffing and administration
 - Civic and Ceremonial matters (including Mayoralty)

42. It could also address more informal matters such as those relating to local customs such as the weighing of the Mayor (and other officials) ceremony in High Wycombe.
43. The Terms of Reference will also need to specifically address the requirements for the conduct of the review such as consultees, relevant stakeholders and arrangements for overseeing the conduct and progress of the review.

Implementation

44. A Community Governance Review which is started now will likely be completed during the transition period and will therefore be determined by the Shadow Authority. If a decision is made to create a parish council for any area the parish may start to put administrative arrangement in place, but as with the new Council, elections will not take place until 7th May 2020.
45. If the outcome of the CGR is that a town council is created for the unparished area of the town or any new parish council is created for any area within the unparished area there will be a need to establish a new legal entity.

Financial Considerations

46. If the outcome of the CGR is that a town council is created for the unparished area of the town or any new parish council is created for any area within the unparished area there will be a need to establish a new legal entity. Any new local council will reasonably require some resources to ensure compliance with requirements; to support the Members and if necessary to provide some local services. Before the Members can be elected to the new body a budget will need to be set for 2020/21 and during the wider unitary transitional period this will be carried out by the Shadow Authority not Wycombe District Council. As a result there will need to be careful consideration as part of the CGR of the resource implications of establishing a new local council and what resources it will need for the year. A balanced budget will need to be set. For illustrative purposes please see the special expenses for the whole of the unparished area as set out (for the 2019/20 year) in Appendix B.
47. There are also capital resources held by Wycombe District Council through the High Wycombe Town Committee. Consideration will need to be given to whether these assets will transfer and if there is to be a council for an area smaller than the whole High Wycombe area, whether any disaggregation is required. There will also need to be consideration of the financial impacts of any proposed changes to council tax for the whole of the Wycombe district and on the new Buckinghamshire Council as a result of the wider reorganisation. These impacts will need to be considered alongside the impact on the local tax payers of any precept to the unparished area or any area within the unparished area. The balanced budget will want to consider any income generation that the potential new council could generate.
48. It is likely that the wider unitary transition will include a protocol or localism arrangements about the transfer of assets to existing or new parished areas and how these transfers would impact on the new Buckinghamshire Council. As a result the review will need to consult and work with the finance officers supporting unitary transition and understand the interrelationships between the needs of any new local council and the needs of the new Buckinghamshire Council. These matters will need to be considered as part of the CGR. Public consultation will need to reflect potential financial impacts of the proposed new governance arrangements for the area.

Consultation

49. The County Council and the Shadow Authority will need to be advised and consulted.
50. When reviews are carried out, it will be necessary to carry out public consultation before any decision can be made. The requirements and timescales for consultation are set out in the proposed terms of references at Appendix A to the report.
51. Section 93 of the Act sets out how councils must conduct a review - it states amongst other things that councils are required to consult those local government electors in the area under review, and others which appears to the council to have an interest in the review

Conclusions

52. Members are requested to consider:
 - whether a combined Community Governance Review should be carried out in relation to the four areas which have triggered a review.
 - whether any additional areas should form part of the Review
 - the content and scope of the Terms of Reference

Next Steps

53. Decisions of this committee will be recommended to Full Council on 1st April 2019 for a final decision.