

## **Cornwall Community Governance Review – Terms of Reference**

### **Introduction**

1. Cornwall Council has decided to undertake a Community Governance Review (Review) of the governance arrangements of all of the parishes in its area.
2. This Review will relate to the whole of Cornwall, in order to consider whether it is appropriate to make changes to parish areas and parish electoral arrangements; and potentially the alteration, merging, creation and abolition of parishes, the naming of parishes and the adoption of alternative styles for new parishes. It might also involve changes to the electoral arrangements for parishes (the council size; the number of councillors to be elected to the council, and whether to divide the parishes into parish wards for the purposes of elections).
3. In some cases it might be appropriate to group parishes under a common parish council.
4. Whilst the primary focus of the Review will be city, town, parish and community council matters, the outcome will be presented to the Local Government Boundary Commission for England, which has responsibility for Cornwall Council electoral division matters. In a limited number of instances, the Council may wish to request the Commission to alter a Cornwall Council electoral division boundary so that it is coterminous with a parish boundary. There may also be a need to make changes that arise in consequence of the Review (termed “consequential matters”), and these might include provisions for the transfer of parish council staff, property and assets, or the setting of precepts for any new parish councils that may be formed.
5. The Local Government Boundary Commission for England has power to alter unitary Council division boundaries. It also has the power to vary any of the parish warding arrangements that it changed as part of the recent electoral review of Cornwall Council. The Commission imposed parish warding arrangements in relation to 29 parishes.
6. At present, there are 213 parishes in Cornwall. Of these, 57 are divided into parish wards for the purposes of parish elections leading to 309 parish/town/city council areas and 16 parish meetings. There are 2051 parish councillors, with each parish councillor representing an average of 206 electors. However, the electoral quota (the ratio of electors to parish councillors) varies widely, and ranges from one councillor to 12 electors to one councillor to 1170 electors across Cornwall. There are currently no grouped parishes in Cornwall.

7. At the last ordinary parish elections in 2017, 62 (20% per cent) of the 309 parish and parish ward elections were contested and led to a poll. However, 312 of the 2051 parish council seats remained unfilled at the close of the last ordinary elections. Many of these vacant seats have since been filled. Parish precepts (the amount that each parish requests to be raised from council tax) vary widely as do the council tax band D equivalents (the average council tax charged to the households of the parish) between the different parishes, with the band D equivalents ranging from £0 to £299.20 across the parishes in Cornwall.
8. The Council will produce maps and data sets to provide further statistical information on these matters and these will be published as they are prepared.
9. In the majority of cases, the present arrangements pre-date the creation of Cornwall Council in 2009, and were put in place by former district councils. The Council is mindful that there has been considerable change to the population, as well as to the settlements of Cornwall following housing developments since that date. Changes to planning policies and decisions also have a bearing on the Review, given that there is a large stock of unimplemented planning permissions and that additional housing allocations have been made in the Cornwall Local Plan and many parish Neighbourhood Development Plans.
10. The Review offers the opportunity to ensure that the tier of parish governance is fit for purpose for the future.
11. The data sets that the Council will produce will show the areas in which new development is planned, especially over the next five-year period between 2019 and 2024, and will provide electorate forecasts for this period for affected parishes where required. These will be provided because the Council is required to consider any change in the number and, where warding arrangements are proposed, distribution of the electors that is likely to occur over this five year period when it considers parish electoral arrangements.
12. In undertaking the Review, the Council will adhere to Part 4 of the Local Government and Public Involvement in Health Act 2007 (as amended) ("the 2007 Act") and the relevant parts of the Local Government Act 1972 in its work. The following regulations apply, in particular, to consequential matters arising from the Review: Local Government (Parishes and Parish Councils) (England) Regulations 2008 (SI2008/625), and Local Government Finance (New Parishes) Regulations 2008 (SI2008/626). The Department of Communities and Local Government and the Local Government Boundary Commission for England has issued Guidance on Community Governance Reviews in accordance with section 100(4) of the 2007 Act in March 2010, and the Council will have regard to "the Guidance".
13. Links to the 2007 Act and the Guidance are provided here:  
<http://www.legislation.gov.uk/ukpga/2007/28/contents>

<http://www.lgbce.org.uk/how-reviews-work/other-types-of-review/about-community-governance-reviews>

14. Section 93 of 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 2007 Act and in these Terms of Reference. The Council will publish its plan for consultation during the Review, and this will include the receiving of submissions to assist the Council in preparing its draft proposals together with an appropriate period of consultation on those proposals. The Council is also required to publish all decisions taken as part of the Review and the reasons for taking those decisions.
15. The contents of this report comprise the Terms of Reference of the Review, and the Council publishes these Terms of Reference in accordance with Section 81 of the 2007 Act.

### **Parish Areas**

16. In this part of the Terms of Reference, further consideration is given to parish areas, an element of the review that may lead to the creation of new parishes, altering the boundaries between existing parishes and, possibly, abolishing some existing parishes.
17. In particular, the Council is mindful that parish reviews were undertaken after the 1974 reorganisation by former district councils except for North Cornwall, and during that interval there has been considerable new development accompanied by a new distribution of population in Cornwall. Many of these developments have traversed parish boundaries and have created new communities of identity. Housing allocations in neighbourhood plans as well as the Local Plan will have the same effect.
18. Section 93(4) of the 2007 Act requires that the Council must have regard to the need to secure that Community Governance within Cornwall:
  - reflects the identities and interests of the different communities in the area;
  - is effective and convenient.

The Council considers that one criterion of community governance being effective is a 'viability' test, i.e. that parishes are viable and have a precept that enables them to actively and effectively promote the well-being of their residents and to contribute to the real provision of services in their areas in an economic and efficient manner; and takes into account any other arrangements for the purposes of community representation or community engagement in the area that reinforce the 'community of identity' test.

19. The Guidance (paragraphs 46-48) emphasises that electors should be able to identify clearly with the parish in which they are resident, because it is considered that this sense of identity and community lends strength and legitimacy to the parish structure, creates a common interest in parish affairs, encourages participation in elections to the parish council, leads to

representative and accountable government, engenders visionary leadership and generates a strong, inclusive community with a sense of civic values, responsibility and pride.

20. Cornwall is entirely parished and there are no areas of Cornwall that do not lie within a parish. The Council notes that the Guidance states that “the abolition of parishes should not be undertaken unless clearly justified” (paragraphs 117-124). The Council is supportive of local councils and is of the view that the whole of Cornwall shall continue to be divided into parish areas and there is a strong presumption that, unless there is a compelling reason to the contrary such as a parish having a very small electorate, all of the parishes in Cornwall shall have parish electoral arrangements. Exceptions to this may be made when the Council considers it appropriate.
21. The Council considers that the boundaries between parishes should normally reflect natural and man-made defining points between communities. These might include rivers or man-made features such as railways or major roads – those defining points that create a community of identity. Consideration must also be made to the historical nature of many long established parish boundaries which may be weighed against changed physical boundaries of settlements. The views of local residents and the parish councils will have an important bearing in this matter.
22. Where changes to boundaries are considered appropriate, the Council will endeavour to select boundaries that are and are likely to remain easily identifiable.
23. Account will be taken of planning boundaries which are not all natural settlements.
24. The Council recognises that, in the rural areas of Cornwall, a strong sense of community can prevail over an extensive but otherwise sparsely populated area. Parishes in these areas may have limited capacity to facilitate service provision and effective local government; even so, arrangements in these areas, when they accord with the wishes of the inhabitants of the parish, will at least represent convenient local government and reflect the identities and interests of the community in that area. The Council will consider this as a significant factor in developing its recommendations.

### **The Grouping of Parishes**

25. A grouping arrangement for parishes may best be considered as a working alliance of parishes that have come together under a common parish council, with the electors of each of the grouped parishes electing a designated number of councillors to the council. This approach has been found in other parts of the country to be an effective way of ensuring parish governance for small parishes that might otherwise be unviable as separate units, while retaining their separate parish identity. Under section 94 of the 2007 Act, new parishes of less than 150 electors will be unable to establish their own parish council.
26. At present, there are no grouping arrangements in Cornwall. There are 3 parishes with councils that have fewer than 150 electors. In a further 16

parishes there is no parish council, and the representative body in those parishes is their parish meeting which must meet at least twice each year.

27. The Council will welcome comments as to whether a grouping arrangement may be an appropriate way forward for small parishes while noting the Guidance (paragraph 114) that “it would be inappropriate for it to be used to build artificially large units under single parish councils.”

### **Names and Styles**

28. The Council is not expecting many requests for changes of parish names in this Review. Where it might be necessary to consider forming a new parish, the Council will endeavour to reflect existing local or historic place names, and will give a strong presumption in favour of names proposed by local interested parties. The Council would wish to avoid composite names other than where the demands of history, local connections or the preservation of local ties make a pressing case for the retention of distinctive traditional names.
29. The 2007 Act introduced ‘alternative styles’ for parishes by inserting section 17A into the Local Government Act 1972. This allows existing parish councils (or the Principle Council during a community governance review) to adopt an ‘alternative style’ to replace the style “parish”. However, only one of three prescribed styles can be adopted: “community”, “neighbourhood” or “village”.
30. Where a new parish is being created, the Council will make recommendations as to the name of the new parish and which of the alternative styles it should have. Where an existing parish is under Review, the Council will make recommendations as to whether the name of the parish should be changed, but it will be for the parish council or parish meeting to resolve whether the parish should have one of the alternative styles.

### **Electoral Arrangements**

31. An important part of the Review will cover the electoral arrangements of the parishes, including any new parishes that are formed. The term ‘electoral arrangements’ covers the way in which a council is constituted for the parish, including:
- the year in which ordinary elections of parish councillors are held;
  - the number of councillors to be elected to the council;
  - the division (or not) of the parish into parish wards for the purpose of electing parish councillors;
  - the number and boundaries of any such parish wards;
  - the number of councillors to be elected for any such parish ward; and
  - the name of any such parish ward.

These matters are considered in turn.

## **Ordinary year of election**

32. The next elections for parish councils in Cornwall are programmed for 2021. Any implications for those elections as a result of the Review will be determined by Cornwall Council's Electoral Review Panel or, if appropriate, a meeting of the Full Council.
33. The Council will endeavour to complete the Review in time for any changes to take effect at the 2021 elections. In particular, it will be necessary to ensure that the Review is completed to allow the various commencement requirements (setting the parish precepts, altering electoral registers, altering council tax bases, etc.) to be in place in good time for those elections and the timetable reflects that position.

## **A council for a parish**

34. Section 94 of the 2007 Act sets out the duties that the Council has with regard to the creation of a council for a parish:
  - where the number of electors is 1,000 or more – a parish council must be created;
  - where the number of electors is 151-999 – a parish council may be created, with a parish meeting being the alternative form of parish governance;
  - where the number of electors is 150 or fewer – a parish council is not created.
35. The Council will have regard to the relevant information in determining whether parish councils will be formed for parishes of more than 150 electors. The Council does not wish to predetermine this issue.

## **The number of parish councillors**

36. The Council notes that the number of parish councillors for each parish council shall not be less than five (section 16, Local Government Act 1972). There is no maximum number in the legislation and there are no specific rules or guidance relating to the allocations of councillors. The Guidance (paragraph 156) states that "each area should be considered on its own merits, having regard to its population, geography and the pattern of communities," and therefore the Council is prepared to pay particular attention to existing levels of representation, the broad pattern of existing council sizes which have stood the test of time and the take-up of seats at elections in its consideration of this matter.
37. The Guidance (paragraph 157) makes the point "that the conduct of parish council business does not usually require a large body of councillors". The Council will look at those parishes where there has been a history of uncontested elections and/or the need to co-opt members in order to fill vacancies, questioning whether the present levels of representation are appropriate or whether there is a 'democratic surplus' in a parish.

38. Section 95(6-7) of the 2007 Act also requires the Council to have regard to the following factors when considering the number of councillors to be allocated to a parish:
- the number of local government electors for the parish; and
  - any change in that number which is likely to occur in the period of five years beginning with the day when the Review starts.
39. The Council will consider a number of factors including the following as it looks at parish council sizes:
- the different demands and consequently different levels of representation that are appropriate between urban and rural parishes;
  - the level of the precept and levels of service provision;
  - the challenges of population sparsity and securing an appropriate level of representation in such areas;
  - the traditional scale of representation in a particular parish; and
  - the need to support a warding arrangement in a particular parish and achieving an equitable parity of representation between wards.
40. The data sets that the Council will publish will provide important information on all these matters.

### **Parish warding**

41. The 2007 Act (section 95(3)) requires that, on considering whether a parish should be divided into wards for the purposes of elections of the parish council, the Council should consider the following:
- whether the number, or distribution, of the local government electors for the parish would make a single election of councillors impracticable or inconvenient;
  - whether it is desirable that any area or areas of the parish should be separately represented on the council.
42. Whilst the Council will consider each case on its merits in line with these criteria, it also considers that warding arrangements should be clearly and readily understood by and should have relevance for the electorate in a parish. Furthermore, ward elections should also be in the interests of effective and convenient local government. The additional costs of multiple ward elections, which can be significant relative to a parish council's budget, should not be wasteful of a parish's resources.

### **The boundaries and names of parish wards**

43. The Council emphasises that parish ward boundaries should be clearly understood; and should take account of community identity and interests within a parish that comprises different parts. Where there is the need to do so, every attempt will be made to fix ward boundaries that are, and will remain, easily identifiable, as well as taking into account any local ties

which might be broken by the fixing of any particular boundaries. These requirements are laid down in section 95(5) of the 2007 Act.

44. A further relevant consideration will be the electoral review of Cornwall Council completed in 2019 through which the unitary divisions will reduce from 122 to 87 in May 2021 and parish warding arrangements have been imposed for 29 parish councils.
45. In the naming of parish wards, the Council will be mindful of existing local or historic place names, and there will be a presumption in favour of ward names proposed by local interested parties.

### **The number of councillors to be elected for parish wards**

46. The Council has noted that the 2007 Act (paragraph 95(5)) requires it to have regard to the following when considering the number of councillors to be elected for each ward:
  - the number of local government electors for the parish;
  - 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.
47. The Guidance (paragraph 166) has advised, and this Council concurs, that “it is an important democratic principle that each person’s vote should be of equal weight so far as possible, having regard to other legitimate competing factors, when it comes to the elections of councillors” to a parish council. While there is no provision in legislation that each parish ward councillor should represent, as nearly as may be, the same number of electors, the Council concurs with the Guidance that it is not in the interests of effective and convenient local government, either for voters or councillors, to have significant differences in levels of representation between different parish wards. However, the Council will consider all relevant information before determining whether any changes might be made.
48. The Council is likewise anxious to avoid the risk that, where one or more wards of a parish are over-represented by councillors, the residents of those wards (and their councillors) could be perceived as having more influence than others on the council. During the Review process and in its consultations, the Council is committed to consistently showing the ratios of electors to councillors that would result from its proposals.
49. The foregoing considerations, which are considered to be equitable, will also guide the Council when it considers the number of councillors to be elected to a common council by each parish within a grouping arrangement, if any such grouping arrangements are proposed.

### **Consequential Matters**

50. The Review will be completed when the Council adopts the Reorganisation of Community Governance in Cornwall Order. This Order may cover any consequential matters that appear to the Council to be necessary or proper to give effect to the Order. These may include:



- the transfer and management or custody of property;
  - the setting of precepts for new parishes;
  - provision with respect to the transfer of any functions, property, rights and liabilities;
  - provision for the transfer of staff, compensation for loss of office, pensions and other staffing matters.
51. In these matters, the Council will be guided by the 2007 Act and the regulations referred to above.
52. The Council is mindful that it may recommend that the Local Government Boundary Commission for England make alterations to the Cornwall Council electoral division boundaries to reflect changes made at parish level. The Council notes that it will be for the Commission to decide if related alterations should be made and, if so, when they should be implemented.
53. Earlier in this document it was noted that, in a limited number of instances, the Council may wish to request the Local Government Boundary Commission for England to alter a unitary division boundary so that it is coterminous with a parish boundary.

#### **What Happens Next in the Review**

54. The Council is establishing a Review website where it will publish maps and data sets to support the Review. Paper copies of these documents will be available at the Council's main offices at New County Hall, Truro and the Council, where appropriate, will also make some or all of these documents available at other locations. Details of those locations will be provided on the community governance review web pages on its website [www.cornwall.gov.uk](http://www.cornwall.gov.uk).
55. The Council will also commence a process of consultation to enable it to prepare Draft Proposals in the Review in accordance with the indicative timetable.
56. The Review will be overseen by Cornwall Council's Electoral Review Panel which will report to Full Council on the more significant issues.