



Department for
Communities and
Local Government

Government response to consultation on making it easier to set up new town and parish councils

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Introduction

The Government's commitment to handing back power to local communities has led to radical change taking place in local communities. The Localism Act has been the catalyst for this change, with local councils at all levels being the focal point for this transformation within our local communities.

The Government has embarked on a programme of work which aims to support local democracy and the empowerment of local people. The range of tools which communities are already using include powers in the Localism Act for neighbourhood planning, the community rights to challenge and bid and the general power of competence. We want to continue to build upon the momentum generated by this raft of changes to give greater opportunity for local people to influence their local services.

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. Although there are over nine and a half thousand parish councils across England, the majority of people (63 per cent) still live in neighbourhoods that do not have a parish council.

We want to make the current process for setting up a new parish council much easier, quicker and most importantly democratic for local people who want their neighbourhood to have a parish council.

We have been listening to our partners in local government – councils at every tier, representative and sector bodies - and local people to explore how we can help improve the current process. We identified a range of proposals which we encapsulated in a discussion paper.

We invited views on the proposals outlined in the discussion paper in a formal consultation. The consultation ran from the 31 October 2012 until 9 January 2013. The three key options outlined in the discussion paper are set out below:

Option One - Amending existing guidance

This option proposed that a number of changes to the existing system be made by amending the statutory guidance issued by the Secretary of State. Local authorities must have regard to this guidance in carrying out community governance reviews.

Option Two - Changing the law (including doing so after amending guidance)

This option proposed:

- Changing the threshold of signatures required for a petition to trigger a community governance review;
- Limiting the scope for the local authority's consideration of the issues in a community governance review; and

- Shortening the timetable for the community governance review, and linking the timetable to the electoral cycle more clearly.

Option Three - Making it easier for neighbourhood forums to start the process for creating a new parish council

This option proposed that a neighbourhood forum which had completed a neighbourhood plan could submit an application to trigger a community governance review, rather than having to submit a petition with the required number of signatures. For areas without a designated neighbourhood forum the existing process of a petition would remain.

Summary of consultation responses

We received 76 responses to the consultation.

The participants in the consultation included county, district and borough councils, town and parish councils and bodies which largely represented the interests of councils at all levels. We also received a significant number of contributions from individual citizens and other interested parties, although they were mostly those people who were or had previously worked in the local government sector. Table one below provides a breakdown of responses by the type of respondent.

Table one: Breakdown of responses by type of respondent

Type of respondent	Number	Percentage
Borough/District/County Council	22	29
Town & Parish Council	15	20
Individual Citizen	17	22
Representative Bodies	13	17
Other	9	12
Total	76	100

The respondents provided comments about the current process for setting up a parish council, a range of opinions on each of the three key options, reasoning for their preferred options and suggestions given on possible alternative approaches

We analysed the responses and categorised them according to the level of support and/or objection for each of the three options.

An overview of the breakdown of responses can be seen below in table two.

Table two: Breakdown of responses for three options

Breakdown of Responses	Option 1 - Amending Existing Guidance	Option 2 - Changing the law (including doing so after amending the guidance)	Option 3 - Making it easier for neighbourhood forums to start the process for creating a new parish council
Strongly in favour	5	6	6
Somewhat in favour	31	32	28

Breakdown of Responses	Option 1 - Amending Existing Guidance	Option 2 - Changing the law (including doing so after amending the guidance)	Option 3 - Making it easier for neighbourhood forums to start the process for creating a new parish council
Neutral or no preference specified	21	15	19
Somewhat opposed	13	16	14
Strongly opposed	6	7	9
Total	76	76	76

The neutral or no preference specified category included those respondents who made no comment about a particular option.

The majority of respondents submitted comments that were consistent with the discussion papers' assessment of the problems with the current process for setting up a new town and parish council.

The consensus of opinion was that Government's overarching approach towards implementing some form of change to the current process was justified. However, it was apparent that respondents' preferences were evenly distributed across the three key options presented in the discussion paper.

Thirty-six respondents were strongly or somewhat in favour of option one - Amending the existing guidance. A slightly higher number of respondents, thirty-eight, were strongly in favour or somewhat in favour of the key proposals set out in option two - Changing the law (including doing so after amending guidance). Finally, in respect to option three, thirty-four respondents gave comments that suggested they were strongly or somewhat in favour of making it easier for neighbourhood forums to start the process for creating a new parish council.

Scope for applying additional elements from the three options

As explained in the consultation paper, each of the three options outlined in the discussion paper included a number of specific measures aimed at supporting improvements to the current process, such as changes to the timescale and petition thresholds for the process. The discussion paper grouped each measure under the three options. The paper was not intended to be prescriptive in terms of adopting one single option; the various measures within each option are interchangeable and are not in opposition to each other; individual measures from different options can be combined. We aim to adopt an approach that includes the right mix of measures which will best help the diverse types of neighbourhoods who want to more easily set up a parish council.

With this in mind it is worth noting that many of the respondents expressed equally supportive and/or disapproving comments for more than one of the three options e.g. some favoured and/or disapproved with option one whilst giving equally positive or disapproving comments about options two and three. In some cases where a respondent demonstrated a preference for one particular option, this was not necessarily qualified with any comment. Indeed, there was a tendency for respondents to express more comment about the options they did not favour.

Overview of consultation questions

Option One - Amending existing guidance

The breakdown of the responses to option one, which proposed to limit change to amendments of existing guidance, showed that seven per cent of respondents (5) were strongly in favour and 41 per cent (31) were somewhat in favour of the key principle of this option. In contrast, only 17 per cent of the respondents (13) somewhat opposed this approach with a further seven per cent (5) strongly opposing the suggestion to amend the existing guidance.

Over 28 per cent of the respondents (21) showed neutrality or specified no preference; this high level of non-response might be explained by respondents focusing their comments on those aspects of the discussion paper, where they held a particularly strong view.

The key supporting comments gave the consensus as being that the majority of respondents who submitted positive contributions about this approach felt that it would be sufficient for Government to make amendments to existing guidance and did not consider it necessary for Government to institute change through statutory legislation. Contrary to this, some respondents opposed to this approach indicated that the process for setting up a town and parish council could only be improved changes were enforced by legislation.

Shortening the timescale for completion of Community Governance Reviews

There was significant comment relating to shortening the timescale for completion of the community governance review from twelve months to six months. Opinion was somewhat divided between those respondents whose comments favoured the reduction and those who disagreed with the proposal.

34 per cent (26) of the respondents gave opinions that could be construed as favouring shortening the timescale, whereas 22 per cent (17) indicated they opposed this element of the proposal. However, the majority of respondents, 43 per cent (33) either did not comment or show any preference in favour of retaining or changing the timescale for conducting a community governance review.

Some of those who agreed with the principle of reducing the timescale, or were less critical of the proposals to halve the process for conducting community governance reviews still had some concerns. Some held the view that the timescale should not be prescriptive because the length of time required to conduct a review might be influenced by a range of factors. Factors included the geographical size of the area proposed to be parished, the demographics of the area and any potential financial burden the principal authority is likely to incur.

It was apparent from the responses of town and parish councils that some were concerned about this element of the discussion paper. Among the comments put forward in favour of the view that existing timescales were already appropriate was that halving the timescale

might lead to poorer, ineffective consultation and resident disempowerment; particularly in those circumstances where the principal authority opposed a proposal.

Additional comments in opposition to the shortening of the timescale doubted whether the reduction to six months would give sufficient time to conduct a thorough comprehensive review. One respondent set out the key deliverables to illustrate the complex process involved in completing a community governance review – including the awareness raising exercise, conducting the consultation, assimilating the responses received and agreeing the resultant proposals.

Some respondents also suggested other variations outside the timescales set out in the discussion paper; this included reductions of eight and nine months respectively.

Option Two – Changing the law (including doing so after amending the guidance)

The spread of support and opposition to option two which proposed a change to the law was comparable to the distribution for option one. From the 76 respondents eight per cent (6) were strongly in favour of the key aims of this proposal. A further 42 per cent (32) stated they were somewhat in favour.

21 per cent of respondents (16) indicated broad opposition to this proposal and nine per cent (6) strongly opposed the proposal. Additionally, 20 per cent (15) adopted a neutral position or specified no preference either way.

Changing the Threshold for a Petition for a Community Governance Review

The section of the discussion paper relating to lowering the petition threshold to trigger a community governance review generated the most comments.

Analysis of the responses indicated that the position taken varied according to the respondent type. It was apparent that individual citizens, town and parish councils and those representing the interests at this level of local governance tended to support a reduction in the threshold, whereas the county, district and borough councils tended not to approve of lowering the trigger threshold to five per cent.

However, a significant proportion, approximately one third, of parish councils or those representing them also did not support a reduction in the threshold.

The comments made favouring the reduction included the view that the current process requires too high a number of electors to agree changes particularly in smaller communities.

The comments suggesting that the threshold should remain unchanged included the opinion that lowering the threshold may risk the process becoming undemocratic, unaccountable or lacking a mandate. Additional reasons given for retaining the 10 % threshold included the view that it would prevent frivolous requests.

More broadly, there was support by many respondents to proposals to link the threshold to the electoral turnout for the area and including former residents into the numbers considered for the threshold.

Right of Appeal

The majority of respondents did not express a particular view in relation to the provision of a right of appeal – 76 per cent (58). Only 16 per cent of respondents (12) submitted any comment that favoured the introduction of some mechanism that allowed a right of appeal. The remaining eight per cent (6) gave specific comments that opposed the introduction of a right of appeal.

Some principal authorities were critical of this particular proposal. Key comments from principal councils included the suggestion that the Secretary of State should consider all appeals to avoid the vexatious submissions. One respondent did suggest that an independent body should be set up to consider submitted right of appeals. Some principal councils stated they were concerned about potential financial burdens that could be placed upon them by a right of appeal.

More broadly, there was support across the range of respondent types towards aligning the community governance review process with the principal authority election timetable. There was a consensus that this would help to make the process more cost effective.

Option Three – Making it easier for neighbourhood forums to start the process for creating a new parish council

The breakdown of responses to the third option on measures to make it easier for neighbourhood forums to start the process for setting up new parish councils showed that 45 per cent (34) were strongly or somewhat in favour of this proposal.

A further 30 per cent (23) strongly or somewhat opposed the proposal. 25 per cent (19) showed neutrality or specified no preference to the option.

It was apparent that both individual citizens and town and parish councils particularly favoured the option of allowing a neighbourhood forum to submit an application to trigger a community governance review, rather than having to submit a petition with the required number of signatures.

Some respondents who agreed that neighbourhood forums should have more influence in this process felt they would have greater legitimacy if safeguards were introduced to limit their powers. Among the safeguards proposed included the requirement for forums to have a credible neighbourhood plan, a referendum to support a submission and the introduction of elections for those intending to be representatives, in line with the proposal outlined in the consultation paper. One respondent commented that evidence of a longer term interest in the sustainability of a parish council could be more easily identified where a forum already existed.

In contrast some respondents expressed concern about increasing the prominence of neighbourhood forums and the reliance on only twenty one members of the electorate to trigger a community governance review. Comments included that the figure of twenty one would not be sufficiently representative to justify triggering a referendum and that it would add a further level of bureaucracy into the process.

Government response

The Government welcomes the contributions of those local councils, representative and sector bodies and individual citizens who took part in the consultation.

The comments and suggestions submitted have provided an invaluable insight into the views and perspectives of many of those who have an important role to play in the process for setting up a parish council. We have considered the range of views expressed during the consultation to the three options and the specific measures grouped under them.

It is evident from the responses that there is support for change to help improve the process for setting up a new town or parish council. This support is consistent across all respondent types - including councils at all tiers, local citizens and the wider sector bodies. As a result the Government intends to introduce a range of measures to improve the current process.

We will:

- change the law to limit the time for a community governance review to twelve months from the receipt of a valid petition in all cases. We recognise concerns from some respondents that a more drastic reduction would have a negative impact on principal authorities' ability to carry out more complex reviews thoroughly, and feel that this reduction achieves the right balance between pace and thoroughness.
- reduce the number of signatures needed on a petition for a community governance review. This proposition is consistent with the views expressed in the consultation; which broadly supported some level of reduction. We have given consideration to the concerns raised by some respondents – including the third of parish councils who opposed halving the threshold to 5%. As a result we will lower the threshold by a quarter to 7.5% of the local area population; this proportion will be set higher for local areas with smaller electorates, in line with the current arrangement. This approach will ensure that new parishes will only be created in those areas where there is clear and evident support from the electorate.
- introduce the changes proposed to make it easier for neighbourhood forums to start the process for setting up new parish councils; this resonates with the support given for this option in the consultation. While some respondents had concerns about this process, the Government feels that these are ones which can be addressed within the change proposed. For example, in respect of concerns that forums are not sufficiently representative of local communities, this proposal will require that the forum has produced a neighbourhood plan which has been passed by a referendum of the local electorate before it can trigger a community governance review; and (in advance of that happening) the forum can test support for having a parish council with the community. Also, while the forum would have the right to initiate a governance review, the review will itself test public support and the decision on the review remains with the local authority.

- Amend guidance to address the interpretation of the concepts of ‘effectiveness’ and ‘convenience’ in a community governance review and give weight to the perspective of the community in the interpretation of these concepts. Responses in the consultation were not sufficiently strong to justify a change of the law in this regard, but addressing the issue in guidance will enable a flexible approach.
- Amend guidance to recommend that the local authority sets out how the process can fit with the electoral cycle. Respondents were broadly in support of this approach; however, our objective can be achieved by amending guidance rather than making a legislative link.
- Amend guidance to recommend that local authorities have an appropriate internal review process on request, but not seek to establish a right of appeal for campaigners. This approach is in line with the Government’s previously expressed position that we did not propose to introduce a right of appeal, and the lack of strong support for a right of appeal expressed in the consultation responses.

The steps outlined above will make the process quicker, easier to understand and easier to initiate. They take account of the views expressed in response to the consultation. They represent an incremental change on the current process. We will keep the process under review and consider further change if, in the light of experience, we find that these changes are not sufficiently helping communities to set up a parish council where they want one.

Next steps

We will shortly commence the Legislative Reform Order process with the intention of implementing changes to the current system for setting up new parish councils within the next twelve months.