



Department for
Communities and
Local Government

Strengthening parish and town council accountability

Consultation on extending the remit of the Local
Government Ombudsman to larger parish and town councils



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1. Summary of proposals

A consultation paper issued by the Department for Communities and Local Government on behalf of the Secretary of State

Topic of this consultation:	This consultation paper sets out the Government's proposals for extending the remit of the Local Government Ombudsman to larger parish and town councils.
Scope of this consultation:	<p>The purpose of the consultation is to set out the Government's proposals for improving the options for redress by the public when they are let down by their local authority. The Department for Communities and Local Government is consulting on whether the jurisdiction of the Local Government Ombudsman, the organisation charged with investigating complaints from individual members of the public that they have suffered injustice arising from maladministration in local authorities, and able to recommend redress to remedy that injustice, should be extended to larger parish and town councils so that individual citizens have an independent route for redress when they have been let down by their parish or town council.</p> <p>The Department is also consulting on how larger parish and town councils should be defined for this purpose.</p> <p>Any change to the jurisdiction of the Local Government Ombudsman requires a change to primary legislation, specifically the Local Government Act 1974.</p>
Geographical scope:	The jurisdiction of the Local Government Ombudsman extends to local authorities in England only.
Impact Assessment:	An Impact Assessment is only needed where proposals impact upon business or voluntary sector bodies, or have significant costs for the public sector. Our assessment is that the proposals in this consultation will not bring about such impacts, although this consultation does seek the views of those likely to be affected by the proposals.

Basic Information

To:	This consultation is open to everyone. We particularly seek the views of individual members of the public, town and parish councils, those bodies that represent the interests of local authorities at all levels and those who have an interest in redress in public institutions.
Body responsible for the consultation:	The Conduct and Council Constitutions Team in the Department for Communities and Local Government is responsible for conducting the consultation.
Duration:	The consultation will begin on 26 March 2015. The consultation will run for 9 weeks and will close on 30 June 2015. All responses should be received by no later than 30 June 2015.
Enquiries:	<p>During the consultation, if you have any enquiries, or wish to receive hard copies of the consultation document, please contact:</p> <p>Vanita Patel e mail: vanita.patel@communities.gsi.gov.uk TEL: 0303 44 42581</p> <p>How to respond: Please respond by email to:</p> <p>parishconsult@communities.gsi.gov.uk</p> <p>Alternatively, please send postal responses to:</p> <p>Vanita Patel Department for Communities and Local Government 2nd Floor, NE, Fry Building 2 Marsham Street London SW1P 4DF</p> <p>Responses should be received by close on 30 June 2015.</p>
Confidentiality and Data Protection:	<p>Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004).</p> <p>If you want the information that you provide to be treated as confidential, please be aware that, under the Freedom of Information Act 2000, there is a statutory code of practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be</p>

	<p>helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, in itself, be regarded as binding on the department.</p> <p>The Department for Communities and Local Government will process your personal data in accordance with the Data Protection Act 1998, and in the majority of circumstances this will mean your personal data will not be disclosed to non-government third parties. Individual responses will not be acknowledged unless specifically requested.</p>
After the consultation:	A summary of responses to the consultation will be published on the Department's website within three months of the end of the consultation period.
Compliance with the Consultation Principles guidance:	The consultation complies with the Consultation Principles guidance.

2. Introduction

1. The Department for Communities and Local Government is consulting on proposals to extend the redress available to the public when they are let down by their local authority by extending the jurisdiction of the Local Government Ombudsman to larger parish and town councils responsible for substantial sums of public money and whose decisions affect a large number of people.

2. The Local Government Ombudsman may investigate complaints from individual members of the public who consider they have suffered injustice arising from maladministration in local authorities. If the Local Government Ombudsman finds in favour of the complainant, the Local Government Ombudsman may recommend redress. The jurisdiction of the Local Government Ombudsman currently extends to, among other authorities, district, borough, city and county councils. It does not extend to parish or town councils.

3. The remit of the Local Government Ombudsman is something that the Government keeps under constant review. The Government recognises that when the public are let down by those that provide their services, swift and effective redress is important.

4. There are around 9,000 parish and town councils across England, representing more than 37 per cent of the population. Whilst parish and town councils do not have the same range of powers as principal local authorities – county and district councils and London borough councils - their responsibilities can be diverse and the decisions they take can affect the day to day lives of many citizens. Whilst for the majority of parish and town

councils the local redress mechanisms currently available to the public are sufficient and proportional, it is right that larger parish councils with responsibilities and budgets comparable to those of district councils, should have equivalent accountability and redress mechanisms to those of principal authorities.

5. It is thus proposed to extend the Local Government Ombudsman's jurisdiction to cover these larger parish and town councils. This should not only give a better deal for the citizen but also lead to better quality and value for money in the local public services delivered by the tier of government nearest to the people.

3. Parish and Town Councils and Redress

6. It would be neither practical nor appropriate to extend the jurisdiction of the Local Government Ombudsman to cover all parish and town councils, some of which can have budgets of a few thousand pounds and populations of one or two hundred. In fact parish and town councils vary enormously in size, activities and circumstances. The smallest represent populations of less than 150, the largest has a population of around 71,000 people. Parish and town councils do have a range of statutory functions, which are concurrent with those of district councils and include for instance, allotments, maintenance of footpaths, certain planning matters, maintenance of recreation grounds, traffic calming measures, provision of bus shelters, community centres and the acquisition and sale of land. In addition, principal councils may devolve responsibility for the discharge of certain of their functions to parish and town councils where these have the capacity to undertake these roles.

7. There are, however, important differences between town and parish councils and principal local authorities such as district councils. Legislation regarding executive arrangements and overview and scrutiny does not apply to parish councils. Parish and town councils have limited requirements for audit where income and expenditure is below £6.5m.

8. Local authorities, including parish and town councils, are independent of central government. They are accountable to their electorate, the auditors and ultimately the courts. Legislation provides a framework in which they must operate and they must operate within the law at all times. The Government expects parish and town councils to be open and transparent in the way they conduct their business.

9. The majority of parish and town councils, with the relatively limited functions which they exercise, are well placed to settle complaints at a grass roots level. Redress mechanisms include using the council's formal complaints procedure, or pointing out concerns during the public inspection period of accounts, or by joining with a group of local electors to call for a parish poll on the issue of concern. Furthermore, every elector has the right to raise any matter affecting parish business at the annual parish meeting.

10. Redress routes can also shape and inform the future direction of a parish or town council. For example, parish polls, which allow for a ballot of local government electors in the parish to be called on any question arising from a parish meeting, can provide an indication of support for, or opposition to, specific parish matters which can help to guide the council's decision making.

11. The Government considers that for the majority of parish and town councils the existing system of redress for handling complaints is proportionate, lends itself to achieving swift and effective redress, and is consistent with the principles of localism. However, it considers that for those larger parish councils with responsibility for large amounts of taxpayers' money or which make decisions affecting the lives of many thousands of people, it would be appropriate to have an independent redress mechanism for members of the public.

4. The Local Government Ombudsman

12. The Local Government Ombudsman has responsibility for investigating complaints from individual members of the public who consider they have suffered personal injustice arising from maladministration in local authorities and certain other bodies within the Local Government Ombudsman's jurisdiction. The Local Government Ombudsman can make recommendations for redress and while these recommendations are not binding, there is almost total compliance. Recommendations for redress are intended to right the injustice caused and can include financial remedy, although this tends to be in the hundreds, rather than the hundreds of thousands, of pounds. The Local Government Ombudsman's recommendations are also valuable in preventing a repeat of the injustice and so promoting good practice in local authorities.

13. The Local Government Ombudsman's jurisdiction extends beyond principal local authorities such as district, borough, city and county councils to authorities such as internal drainage boards, National Park authorities and Fire and Rescue authorities. In 2013-2014 the Local Government Ombudsman considered 11,725 complaints and enquiries about, for instance, benefits and tax, planning and development, highways and transport and environmental matters. The Local Government Ombudsman's jurisdiction also covers social care provision, and extends to adult social care provided privately.

14. The Local Government Ombudsman is considered by Government to be a valued and respected part of the democratic process providing redress for individuals and driving up standards in authorities within its jurisdiction. Given the experience of the organisation in investigating complaints not just about principal local authorities but also varied single purpose authorities, the Government considers that it is the appropriate organisation to be given the role of independent redress provider for larger parish councils.

Q1. Should the Local Government Ombudsman's jurisdiction be extended to larger parish and town councils?

5. Defining ‘Larger’ Parish and Town Councils

The proposal

15. The Government is not proposing extending the jurisdiction of the Local Government Ombudsman to all parish and town councils. The Government understands that this would be impractical, with over 9,000 parish and town councils in England. Furthermore, the Government considers that for the majority of parish and town councils the existing redress mechanisms are proportionate.

16. The Government considers that it is right that the jurisdiction of the Local Government Ombudsman be extended to larger parish and town councils. We are now consulting on how a larger parish and town council is defined.

Defining a larger parish or town council by population

17. Some town councils have populations the same, or larger, than some of the smaller district councils which are within the jurisdiction of the Local Government Ombudsman. The smallest population for a district council is around 35,000 people. The Government considers it reasonable that any parish or town council with a population the same as or greater than a district council may be considered a large parish or town council and, because the actions, decisions and responsibilities of the parish or town council affect so many people, that parish or town council should be within the jurisdiction of the Local Government Ombudsman. Census data would be used to provide the population numbers for the parish and town councils. There are around 21 town councils with a population of 35,000 or more.

18. The Government understands that there may be an argument for extending the jurisdiction of the Local Government Ombudsman to less populous parish and town councils. Respondents are invited to indicate their preferred population threshold. The table below indicates how many parish and town councils would be in the jurisdiction of the Local Government Ombudsman if the threshold were set at various population levels.

Population threshold	Approximate number of parish and town councils within jurisdiction
1,000 and more	2,640
5,000 and more	803
10,000 and more	444
20,000 and more	155
30,000 and more	26
35,000 and more	21
40,000 and more	11

Q2. Should a large parish or town council be defined by having a population the same as or greater than 35,000 people, or should the population threshold be set at a different limit?

Defining a larger parish or town council by budget

19. The Government recognises that a number of parish and town councils have significant budgets, reflecting the size of the area they serve and the services that they provide to their communities.

20. Quantifying a parish or town council's budget is problematic. As well as an annual precept, a parish or town council may raise income in a variety of ways, from allotments to charges for the use of community centres or sports facilities. Moreover there is scope for annual variation to a parish or town council's budget which may be significant arising from, say, the disposal or acquisition of a substantial asset.

21. Where there is significant use of taxpayers' money the Government consider that the authority responsible for spending taxpayers' money should be accountable. That is why, in addition to the transparency rules and audit requirements the authority already has to fulfil, the Government is consulting on whether a parish or town council's annual precept should act as the threshold for determining its status as a large parish or town council and that the threshold for being considered a larger parish or town council should be £1m. There are 23 parish and town councils with a precept of £1m or over.

Q3. Should a large parish or town council be defined by having an annual precept of £1m or more?

Defining a larger parish council by a combination of both population and budget

22. Recognising that defining a larger parish or town council by population alone or by precept alone might include a parish or town council that is large in terms of population or precept raised, but is not a large administrative body in the sense that it should fall within the jurisdiction of the Local Government Ombudsman, a further option is to define only those parish or town councils with both a population of 25,000 or over and an annual precept of £1m as 'large'. There are around five parish and town councils that meet this criteria.

Q4. Should a larger parish or town council be defined by both population and budget?

The permanence of 'larger' parish and town council status

23. The jurisdiction of the Local Government Ombudsman is set in the Local Government Act 1974. It is this legislation that allows the Local Government Ombudsman to investigate complaints about principal local authorities and other bodies within its jurisdiction. Defining a class of local authority, in this case a larger parish or town council, by population, or annual precept, or both, raises the issue of determining whether a body

is subject to the jurisdiction of the Local Government Ombudsman by a criteria that may fluctuate from year to year.

24. It is undesirable for a local authority to be subject to the jurisdiction of the Local Government Ombudsman one year and not the next. This not only causes confusion about whether or not a complaint might be investigated and the Local Government Ombudsman's power to make any recommendation, but also creates confusion rather than reassurance for any member of the public who may wish to make a complaint.

25. Accordingly, we propose that, as one of the possible criteria for defining a large parish or town council is the population of that parish or town council, and that the population data is to be furnished by the Census, any parish or town council judged to be considered 'large' by its population upon publication of Census data shall be considered to be within the jurisdiction of the Local Government Ombudsman for the next decade, or until the publication of the next Census data for that parish or town council, whichever comes first.

Q5. Once subject to the Local Government Ombudsman's jurisdiction, should the parish or town council remain so for a fixed time period?

Annex A

Response Form

Response form for consultation paper issued by the Department for Communities and Local Government on behalf of the Secretary of State on the Government's proposals for extending the remit of the Local Government Ombudsman to larger parish and town councils.

Respondent details	Please submit your response by 30 June 2015 to:
Name:	parishconsult@communities.gsi.gov.uk
Organisation:	
Address:	Alternatively, please send postal responses to:
Town/City:	
County/Postcode:	Vanita Patel
Telephone:	Department for Communities and Local Government
e mail:	2nd Floor, NE, Fry Building
	2 Marsham Street
	London
	SW1P 4DF

Are you requesting non-disclosure of your response: YES/NO

Q1. Should the Local Government Ombudsman's jurisdiction be extended to larger parish and town councils?
COMMENTS
Q2. Should a large parish or town council be defined by having a population the same as or greater than 35,000 people, or should the population threshold be set at a different limit?
<p>Please indicate your preferred population threshold</p> <p>Population of 1,000 or more</p> <p>Population of 5,000 or more</p> <p>Population of 10,000 or more</p> <p>Population of 20,000 or more</p> <p>Population of 30,000 or more</p> <p>Population of 40,000 or more</p> <p>COMMENTS</p>
Q3. Should a large parish or town council be defined by having an annual precept of £1m or more?
COMMENTS
Q4. Should a larger parish or town council be defined by both population and budget.
COMMENTS
Q5. Once subject to the Local Government Ombudsman's jurisdiction, should the parish or town council remain so for a fixed time period?
COMMENTS