



Department for  
Communities and  
Local Government

# Making it easier to set up new town and parish councils

The Explanatory Document to the Legislative Reform Order on Community Governance Reviews

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# 1. Introduction

1. All local authorities in England are required to comply with the legislation which regulates community governance reviews, the process that allows for the creation of new town and parish councils. The legislation is governed by the Local Government and Public Involvement in Health Act 2007, specifically Chapter 3 (Reorganisation) of Part 4 (Parishes). The process for conducting reviews is set out in the Department for Communities and Local Government (DCLG) and Local Government Boundary Commission Guidance on Community Governance Reviews, last published in 2010. The legislation requires that a local authority must conduct a review, which might result in the formation of a new parish, if a Neighbourhood Forum can demonstrate that it has obtained the requisite proportion of the local electorates support required under the Act.
2. Over the last three years, the Government has engaged interested parties across the local government sector, both informally and through a formal public consultation. This information gathering showed that the provisions in the legislation can be burdensome on local campaigners and often discouraged them from exploring their wish of creating a parish council. The draft Order accompanying this explanatory document sets out the three amendments proposed for the legislation, which our research indicates will remove the bureaucracy that frustrates and hinders many local campaigners. The objective of these changes is to reduce the burden on campaigners, but importantly retain the elements of the legislation that currently prevent the risk of councils being set up where there is insufficient support.
3. The explanatory document is laid before Parliament in accordance with section 14 of the Legislative and Regulatory Reform Act 2006 (“the 2006 Act”) together with the draft of the Legislative Reform (Community Governance Reviews) Order (2014) (“the draft Order”) which we propose to make under section 1 of that Act. The purpose of the draft Order is to amend sections 80, 83, 84, 85, 93 and 102 of the Local Government and Public Involvement in Health Act 2007.
4. The Government is satisfied that the Ministerial duties have been met under the relevant sections of the 2006 Act. This includes that the order serves a parliamentary process under section 14 of the 2006 Act, that the pre-conditions under section 3 (2) of the 2006 Act have been met, also that the appropriate consultation has been carried out in accordance with section 13 (1) of the 2006 Act.

## 2. Background to the Order

### The current arrangements for community governance reviews in England

5. The current process for triggering a review is initiated by either the local authority choosing to carry out a review, or by local campaigners petitioning the local authority to create a new town or parish council or other changes. Section 83 of the Local Government and Public Involvement in Health Act 2007 (“the Act”) requires a council (except under very limited circumstances) to undertake a review upon receipt of a valid petition. Section 80(2) of the Act sets out that a petition is not valid unless it complies with the conditions set out in subsections (3)-(6).
6. The petitioner must at the time of submitting the proposal set out the boundaries for the new parish. Section 80(3) of the Act specifies that the number of signatures required for campaigners to instigate a review under the current process is:
  - 50 per cent of the electors for neighbourhood areas with fewer than 500 electors;
  - 250 electors for areas with between 500 and 2,500 electors; or
  - 10 per cent of the electors for areas with over 2,500 electors.
7. Once a review has been triggered, the local authority must then set the terms of reference for the review, including deciding what geographical area the review will cover. This could include only the area covered by a petition or a wider area. For example, the local authority might choose to take the opportunity that receiving a petition offers to carry out a single, efficient review addressing governance arrangements for the whole local authority area.
8. Section 93(8) of the Act requires the review to be completed within 12 months. However, the timetable does not include the time taken by the local authority to complete preparatory work or setting out terms of reference. Consequently, it is not uncommon for the entire process to take far longer than 12 months. This can be problematic for local campaigners trying to maintain the momentum for a sustained campaign, even for those groups with significant community support.
9. On concluding the consideration of the outcomes of a review, if the principal council decides to create a new parish council, this is done with a reorganisation order. However, the new parish council will not be formally constituted until elections for councillors are held. This can be conducted at the same time as the next local authority elections, or to avoid the long delay the local authority can choose to hold earlier elections for the parish, before it falls into line with the normal electoral cycle for the local authority area.

10. The final decision on whether a new parish should be created sits with the principal council.

## The case for amendments to the legislation

11. The Cabinet Office Open Public Services White Paper published in 2011 recognised that existing legislation for triggering a review placed unnecessary burdens on campaigners. The Open Public Services 2012 update committed the Government to consult on proposals for making it easier to set up new town and parish councils. Since 2012 the Government has increased its engagement with those organisations and bodies which represent the different interests of the sector, to establish whether there is both support and an evidence base to justify making changes to the current process. Consultation included the National Association of Local Councils, the Society of Local Council Clerks, new and established town and parish councils and those local campaigners wanting to create a new council.
12. The extensive engagement undertaken has evidenced growing support across the local government sector for Government reforms to the community governance review legislative process. The Government has concluded from this work that there is sufficient evidence based upon the consultation outcomes to justify a change, this is set out in the Government's response to the consultation. The impetus for change is driven by the need to remove the barriers presented by the current obligations which can constrain local democracy and prevent campaigners from generating and acting upon the views of local people. The consequent effect can be stifling for local campaigns, many of whom would have already demonstrated sufficient support for their proposal. The argument for reform is based upon three key burdens, these are:
  - It's too demanding for campaigners to meet the unrealistically high requisite number of electorate signatures required to demonstrate support to trigger a review.
  - The timetable allowed for the principal councils to complete the review can be lengthy making it difficult for campaigners to maintain the momentum necessary to sustain support over a prolonged period of time.
  - It fails to recognise the status Neighbourhood Forums have within their communities, particularly where the forum has had its neighbourhood development plan passed by the community in a referendum.
13. The feedback gathered over the last three years has enabled Government to formulate a range of measures, which will improve the legislative process and help town and parish councils to play a stronger role in the delivery of local services. Amending the relevant sections of the Act, specifically the introduction of three new measures will improve the experience for local communities and campaigners alike, making it easier for them to take the first steps towards setting up a town or parish council.

14. The Government conducted a public consultation between 31 October 2012 and 9 January 2013 which is available at the following link: <https://www.gov.uk/government/consultations/making-it-easier-to-set-up-new-town-and-parish-councils-discussion-paper>. The consultation sought views on a discussion paper that reviewed the current process for setting up new councils and on a range of measures intended to address identified barriers. There were 76 responses submitted during the consultation period, many respondents worked within the local government sector and/or had direct experience of the current system. The respondents identified a number of problems with the process and expressed views on the viability of the options proposed to remove these barriers. Among the views voiced about the positive benefits to be gained for communities living in a town or parish, respondents comments included how they *'empower communities'*, *'make parish councils more dynamic by opening up planning services to local people'* and *'support Government's ambition to involve communities at every level'*.
15. In terms of the specific measures proposed, the outcomes from the consultation showed that respondents were broadly supportive of the proposed measures; this further strengthened the weight of evidence gathered by the Government since the publication of the Open Public Services report in 2011.
16. The formal Government response to the consultation outcomes was published in September 2013 and set out Government's intended approach. The document can be found on the GOV.UK website by visiting the following link: <https://www.gov.uk/government/consultations/making-it-easier-to-set-up-new-town-and-parish-councils-discussion-paper>. The Government response also set out proposals to amend the Local Government and Public Involvement in Health Act 2007 by means of a Legislative Reform Order, allowing for the introduction of the three key measures.
17. The measures proposed are intended to address the problems associated with the burdensome process. For this reason, it meets the conditions required to allow for the legislative changes to be made by means of the legislative reform order procedure. The changes will result in the removal or reduction of burdens resulting directly or indirectly from legislation and they will result in better regulation for the community governance review process. Additionally, a number of consultation respondents indicated that the process for setting up a town and parish council could only be improved if changes were enforced by legislation. Although many stated that amendments to the Guidance on Community Governance Reviews (2010) would support the legislative changes, the consensus was that non-legislative measures alone could not achieve the same outcome.

**I. Lowering the threshold of signatures required to make a valid petition from 10 per cent to 7.5 per cent**

18. This proposal will reduce the percentage of local government electors required to sign the community governance petition, to trigger a review. The amendments will reduce the threshold from 10 per cent to 7.5 per cent and also reduce the proportions required for smaller electorates in line with that

change. The consultation document proposed a reduction to 5 per cent., but some respondents considered this to be too low. Therefore, the 7.5 per cent reduction was proposed as this was considered to provide a fair balance between improving local democracy and maintaining the necessary protections. Although it is not possible to conduct a modelling exercise based upon the lower figure to evidence the prospective benefits of a reduction from 10 per cent to 7.5 per cent, since specific records of unsuccessful campaigns are not kept, the results of Government's wider engagement and the formal consultation still do support the likely benefits from the level proposed.

19. A key feature of the new process is that it will retain the existing safeguards built into the legislation. This will ensure that only those campaigns with sufficient community support will trigger a review. The proposals recognise the views expressed by some respondents in the consultation that meeting a 5 per cent threshold would not necessarily be an indication that the majority of the community backed the local campaigners' proposals. Therefore, the Government has retained the protection of the provisions under section 79 of the Act 2007, which establish the local authority's role in making the final decision on whether a parish council should be established once the review has been completed and the local community has been consulted.

## **II. Shortening the amount of time the local authority can take to complete a community governance review**

20. The amendments to Article 10 will reduce the time period that the principal council has to conclude the review. The reduction will be from 12 months from the date the review begins, to 12 months from the actual date of receipt of the petition or application. The amendment introduces a time-limit that the local authority is required to conduct all aspects of the review process – including activity such as developing the terms of reference and scope of the review within 12 months of receipt of the petition or application. This is intended to speed up the process and grant a degree of certainty for local campaigners.
21. The public consultation conducted last year showed that 34 per cent (26 of respondents in total) favoured shortening the timescale, with only 22 per cent (17 of the respondents) indicating their opposition to this measure. Although 43 per cent (33 of the respondents) did not show any preference in favour of retaining or changing the timescale, some of the qualitative responses highlighted the positive benefits to be gained from lowering the threshold and simplifying the process. The responses received through our high-level engagement with the sector also strongly favoured the introduction of a time bound process triggered from the point at which a petition or application is made. The consensus of opinion was that this would benefit both local campaigners and councils. Some of the comments in support of the proposal included – *'I support the limit because it's fairer to set ToR's as quickly as possible'* and the *'Condensed timetable would ensure reviews are conducted timely and welcome link to election timetable. Safeguards needed to ensure small minority cannot trigger CGR'*. There was some views expressed, in particular one respondent commented that *'12 month period reduction could lead to poorer ineffective consultation'*.

22. The Government has listened to the feedback from some parties in the sector that the reduction to the timescale relies upon the assumption that reviews can be dealt with quickly. However, the Government considers that the new timetable provides both local authorities and local campaigners with a clearly defined timeline. This change will reduce the likelihood of local support for campaigns ebbing away, which can occur as a result of prolonged periods waiting for a local authority's decision. As a result local campaigners will have the assurance needed to coordinate effective and sustainable campaigns. The time limit proposed is realistic to allow for local authorities to complete even the most complex of reviews.

### **III. Allowing Neighbourhood Forums to trigger a community governance review**

23. The amendments we intend to make will give those Neighbourhood Forums which have a neighbourhood development plan that has passed referendum, the right to submit an application for the creation of a new parish. This will remove the repetitive elements that require campaigners to complete two separate consultation processes to evidence support for their proposals for the future of the community.

24. At present a Neighbourhood Forum as defined under the Neighbourhood Planning (General) Regulations 2012, specifically (Part 3 (Neighbourhood Forums) are required to obtain signatories for a petition for a new council, even if they have already secured support for a neighbourhood plan by means of a referendum. The public consultation results showed that 45 per cent (34 of respondents in total) were strongly or somewhat in favour of this proposal. Only 30 per cent (23 of respondents) opposed this proposal. The majority support for change reflected the views expressed in Government's informal discussions with the sector in that it would remove the duplication that exists under the current system and allow forums to have more influence and ability to trigger a review.

25. The consultation responses support the Government's belief that where a designated Neighbourhood Forum for neighbourhood planning has had a plan adopted this is sufficient evidence of local support for its vision for the future of the areas. Among the supportive statements shared in the research included the views that *Neighbourhood Forums are community based* and *'A forum has legitimised itself with a neighbourhood plan which has established credibility for its proposal'*. The intended change is recognition that the current requirement that forums with an agreed plan must still submit a petition to trigger a review is onerous and unnecessary. There were some consultation respondents that did suggest the proposed measure might give too much power to forums to trigger a review. However, it is important to emphasize that this change only gives the forum the ability to instigate a review if it achieves the required threshold. This does not in itself make the establishment of a town and parish inevitability.



## **Additional changes proposed to support legislative change**

### **Revision to the DCLG and Local Boundary Commission for England**

26. The feedback from across the local government sector, which is supported by the consultation outcomes, recognised the benefit of strengthening the existing joint DCLG and Local Government Boundary Commission Guidance on Community Governance Reviews (2010). In response to this, the new legislative measures proposed by the draft legislative reform order will be complemented by revisions to the guidance. At this time the guidance is subject to a review, there is a specific focus on exploring the key themes raised during the consultation – including clarifying the concepts of ‘effectiveness’ and ‘convenience’ and reviewing whether the review process can be aligned with the electoral cycle. This is a response to the consultation outcomes, which recognised the merits of developing guidance that links reviews to the electoral cycle.
27. DCLG and Local Government Boundary Commission Guidance are currently working together to revise the guidance to set out the process for applying the new measures. There will be a coordinated approach taken by DCLG and the Commission to enable the guidance to be updated at appropriate milestones to ensure it reflects future changes to legislation.

### **Central Government support for New Burdens for local authority community governance reviews**

28. The Government is providing support for local authorities subject to conducting community governance reviews as a result of the new measures. The provision of the central fund will mean that local authorities subject to increased petitions will not incur any additional costs as a result of the new measures.
29. The high-level consultation conducted over the last three years had already provided Government with an understanding of the likely burdens for local authorities under-taking reviews. Additionally, the DCLG research analysts conducted desk-based research throughout January and February 2013. The aim of the research was to establish a more detailed examination of projected costs for local authorities under-taking reviews and the implications for estimating additional burdens to authorities. The research was based upon 10 local authorities with varying approaches towards conducting reviews. The outcomes have enabled DCLG to make an evidence based assessment of the costs of carrying out community governance reviews. This has informed the creation of a centralised budget to support local authorities incurring additional costs as a result of the new measures.

## Current experience for local authorities undertaking community governance reviews

30. It is important to emphasize that local authorities already undertake reviews, often of their own volition, but also where local campaigners meet the requirements set out under the current arrangements. For this reason, it will only be those local authorities required to conduct a review as a direct result of the three measures i.e. where they would not have had to carry out a community governance review under the current arrangements that will be subject to the new burdens.
31. The cost for local authorities conducting a review does depend upon a number of factors – including the scope of the review, the geographical coverage, the demography of the area and the consultation method and the delivery model used. The probability is that there will be a rise in the number of reviews conducted - if as expected the new measures do achieve the objective of encouraging more local communities to benefit from the improvements to the process.
32. The process itself once triggered will not differ significantly from those reviews already linked to the creation of a new parish council. However, the central support available will fund the financial costs incurred by those local authorities required to undertake a review as result of the introduction of the three new measures.

## How will local authorities qualify for support through the new burdens funding?

33. A local authority **will** be eligible for new burdens funding if it meets the following criteria:
- The local authority must have received the submitted petition for a review **after** the date the change to the legislation has come into force.
  - The local authority must be able to demonstrate that the number of signatories in the petition submitted after the date the new measures come into force represents **at least 7.5 % of the local electorate** but **less than the current threshold for triggering a review of 10 %**.
  - The Neighbourhood Forum which has triggered the review must in those cases where the neighbourhood plan has received support by means of a referendum or a petition have **submitted their application after the new legislation comes into force**.

A local authority **will not** be eligible for new burdens funding under the following circumstances:

- The local authority has received the petition for a review **before** the date the new legislative changes has come into force – even in those circumstances where the process is underway after date the legislation comes into force.

- The local authority **already intends to conduct a review** before the receipt of a petition or before the new measures come into force will not be eligible for funding.

#### Future new burdens' funding

34. The Government recognises that some Neighbourhood Forums will need time to set up campaigns and generate support from their communities to submit a petition. As a result we expect that many forums are likely to submit petitions beyond the financial year 2014/15.
35. Additionally, while the process for undertaking a review will be reduced under the new legislative process; the transition to the new process for both Neighbourhood Forums and local authorities might require funding beyond 2014/15. Therefore, the new burdens funding will be made available for the financial years 2014/15 and 2015/16. We will then continue to review the transition by local authorities to implement processes to support the three new measures.

### **Additional proposals suggested which have been rejected**

#### **Right of Appeal**

36. The Government has reviewed all proposals presented by the sector for inclusion in the new legislation. Where evidence exists to support the introduction of specific proposals the Government has indicated its intention to do so. One example of where Government has incorporated proposals presented by the sector includes the decision to re-adjust the threshold for signatories to trigger a review - from the original figure proposed by Government of 5 per cent to 7.5 per cent. A further example includes the decision to undertake exploratory work to revise the current Community Governance Guidance. This represents Government's commitment to genuinely engage and take on board the experiences and views of bodies and organisations across the sector.
37. A number of respondents favoured the introduction of a mechanism allowing for an independent right of appeal for campaigns rejected by the local authority. There were 16 per cent of respondents (12 respondents in total) that favoured the introduction of a mechanism that allowed for a right of appeal. The majority did not express a particular view in relation to the provision of a right of appeal – 76 per cent (58 respondents in total).
38. The Government has given consideration to the arguments presented to support the provision of a right of appeal among the comments include *'the lack of an appeal leaves campaigners at the mercy of councillors representing other parished parts of principle authority'*, *'an independent process is required above the level of the principal council'* and *'a process is needed for independent review if campaigners feel treated unfairly'*. However, the Government has concluded that this should remain a local decision and not be imposed by an outside body. For this reason, the final decision to create a new

parish council should rest with the local authority which is required to base its decision on a comprehensive review that gives full consideration to the views of the local community. Additionally, if campaigners oppose the decision they are able to explore the judicial review route. The Government set out its reasoning on rejecting this proposal in the Government response to the consultation in September 2013.

## 3. The Order

### The powers to remove burden under section 1 of the 2006 Act

39. The Government is committed to removing the burdens associated with the current process for instigating a local authority community governance review. The Order is made under section 1 of the 2006 Act; the purpose of the Order is to remove the current burdens placed on campaigners.

### Compliance with conditions in section 3 of the 2006 Act

#### **Non-Legislative Solutions**

40. The minister is satisfied that no non-legislative solution is possible. The amendments required amendments to Part 3 of the 2007 Act” can only be achieved by primary legislation or by the legislative reform order. Amending the Guidance on Community Governance Reviews would not an in itself be enough to require a local authority to implement the new measures proposed. It would still be reliant upon the discretion of the local authority to decide whether it should follow the guidance. This would fail to create the certainty that we are seeking for the process.

#### **Proportionality**

41. The three measures aimed at easing the burdens on campaigners proposed reflect the Government’s commitment towards supporting localism and the principle of empowering communities to take decisions about the social, economic and environmental improvements they want to see introduced in their local areas. In seeking to reduce the burdens that campaigners face in requiring a local authority to carry out a review, care has been taken that the requirement of popular support for such a campaign is not lost. So ensures that local authorities are not faced with an increased demand for reviews that do not convey the views of the community in question. The measures are supported by the evidence obtained from both the public consultation and the subsequent consultation specifically relating to the legislative reform order process, each demonstrate support for the proposals.

#### **Fair Balance**

42. The intended legislative changes are representative of the outcomes from the public consultation. It further strikes the balance between promoting the policy set out in the Open Public Services White Papers of 2011 and Update Paper of 2012 and maintaining the protections that ensure any new council has the support of local people before a parish council is put in place. The changes will create minimal burdens for local authorities e.g. the likely increase in the

number of reviews. In mitigating these burdens, the Government will be providing a fund for local authorities to access, to cover specific costs associated with those reviews that are triggered by local campaigners submitting a petition or application.

### **Necessary Protection**

43. The minister is satisfied that no protections are being removed. In order to be valid, a petition or application for a community governance review will still require a strong degree of local support. A council will still have an adequate time period to consider all submitted proposals and conduct any review. No changes have been made to the ability of a council to determine what recommendations to make in the best interests of the community as a whole.

### **Rights and Freedoms**

44. The minister is satisfied that no rights or freedoms are affected.

### **Constitutional Significance**

45. The proposed amendments would only apply to local authorities in England.

## **Other Ministerial duties under the 2006 Act**

46. The Minister conducted an eight week consultation exercise between 27 March and 22 May 2014 on the proposed use of the legislative reform order to introduce the new measures. We are satisfied that the consultation met the requirements of section 1 of the 2006 Act. The purpose of the consultation was to establish whether respondents considered the legislative mechanism of the legislative reform order to be appropriate for introducing the new measures. Further details of the consultation and the response can be found in section 4 of the Explanatory Document.

## **Parliamentary Procedure**

47. The Minister recommends that the draft Order should be considered by Parliament under the Affirmative Resolution procedure in accordance with sections 15 and 17 of the 2006 Act. The amendments to the legislation intend to introduce specific changes; rather than seeking to overhaul the process. Therefore, it is important to recognise that the key elements of the process will remain unchanged – including the fact the local authority will retain ultimate responsibility for deciding whether there is sufficient evidence to support the creation of a new town or parish council. Government's long-term engagement and both consultation exercises suggest there is no strong opposition to these changes, further evidencing that the Affirmative Resolution procedures is appropriate.

## Impact Assessment

48. There was no requirement for an impact assessment to be conducted in this case. An impact assessment is only needed where proposals impact upon business or the public sector bodies, or have significant costs for the public sector. Our assessment is that the proposed changes will not bring about such impacts. The first consultation exercise between October 2012 and January 2013 sought the views of those most likely affected by the specific measures proposed and therefore all opportunity was taken to identify possible impacts of these changes. These results enabled an evidence based conclusion to be reached, in that there would be no negative impact due to the plans to improve the process. The only likely additional considerations resulting from the three new measures, specifically their new parameters that might relate to those local authorities required undertaking community governance review based upon. The provisions under the new burdens funding will address any impact that these may have on local authorities.

## Compatibility with the European Convention on Human Rights

49. The Minister does not believe that the repeals proposed by the draft Order would prejudice any of the rights and freedoms protected by the European convention on Human Rights.

50. The draft Order and proposals would have an impact on Wales. Section 11 and 13(1) (c) of the 2006 Act are not engaged, therefore the agreement of the Assembly nor consultation with the Welsh Ministers is required. However, if the contents of the Order change, which extends the application of the Order to Wales we would need to go back to them again.

51.

## 4. Consultation

52. The Government has undertaken extensive engagement throughout the local government sector regarding the intention to amend the current legislation, which has been positively received.

53. A formal consultation was conducted on 31 October 2012 with the purpose of exploring a range of proposals to improve the process; this ran until 9 January 2013. Those respondents who participated in the consultation included individual citizens, representatives from all levels of local government i.e. county, district, borough, town and parish councils and representative bodies and agencies with an interest in local government. This consultation identified a number of burdens experienced by the respondents under the current process and validated Government's plans to remove the lengthy and burdensome elements from the process. As a consequence the Government outlined its preferred plan in the formal consultation response published on 13 September 2013. The Government response addressed the views expressed about proposed changes and provided a robust response to explain the reasons for rejecting those proposals that were submitted. This process has therefore been the subject of, and taken appropriate account of, adequate consultation.

54. The formal consultation relating to the legislative reform order process opened on 27 March 2014 and ran for eight weeks, ending on 22 May 2014. It sought views specifically on the proposal to use the legislative reform order process to introduce the new measures. A list of those to whom the paper was sent is attached at Annex A, though all interested parties were invited to submit responses. A notification of the publication of the paper was also sent to the House of Commons Regulatory Reform Committee. This process therefore been the subject of, and taken appropriate account of, adequate consultation.

55. A total of 26 responses were received. The consultation was issued to the relevant Parliamentary Scrutiny Committees on 27 March 2014. The consultation document was published on the GOV.UK website, which can be found at the following link:  
<https://www.gov.uk/government/consultations/making-it-easier-to-set-up-new-town-and-parish-councils-discussion-paper>

56. An analysis of the consultation responses received has been conducted and is outlined in Table 1.



**Table One: Breakdown of responses to consultation**

Type of Respondent	Number	Percentage
Individual Citizen	12	46 %
Town & Parish Council	4	15%
Borough/District/County	7	27%
Representative Bodies	1	4%
Other	2	8%
Total	26	100

## **The Policy Proposal**

57. The first consultation exercise undertaken had already established support for the measures. Consequently, the purpose of the second consultation exercise was to listen to views on whether the legislative reform order process is the appropriate mechanism for introducing the new legislation. All respondents, 100 per cent (26 in total) responded affirmatively to the survey question **Do you agree that these proposals satisfy the conditions of the legislative reform order?** This outcome represents overwhelming support in respect to the decision to use the legislative reform order to progress the changes to the existing community governance review process. The consultation outcomes did not result in any changes to the proposals; this was not considered necessary because we did not seek views about the specific proposals. It was only intended that the consultation would relate to the use of the legislative reform order as a mechanism for introducing the new measures.
58. It was not the specific intention of the consultation exercise to reconsider the three proposals as these had already been subject to a formal public consultation. Despite this there were a number of respondents who commented specifically on the intended measures. The majority of the qualitative responses were consistent with the views expressed during the first consultation to which the Government provided a substantive response in September 2013. Consequently, there was no new information presented that had not been previously considered in the previous consultation. An overview of the responses broken down by themes is set out below.

### **Comments on the three amendments proposed to the legislation**

#### **Comments relating to the proposal of lowering the threshold of signatures required to make a valid petition from 10 per cent to 7.5 per cent**

59. One respondent raised opposition towards the proposal of lowering the threshold of signatures required to make a valid petition. The respondent's objection was based upon the view that the 7.5 per cent level would indicate a lack of awareness of the views of the majority of local people e.g. even if campaigners approached 15 per cent of the electorate to meet the requisite

threshold of 7 per cent this would still mean that the views of 85 per cent of the local population would still be unknown.

**Government Response:**

60. In response to these views, the Government believe that any perceived lack of engagement by some local people could not be viewed as an indication that they lacked any knowledge about the campaigners' proposal. The approach taken with this proposed measure is consistent with the principle applied to the majority of democratic processes, whereby active and affirmative engagement is weighted favourably because it is evidence of support. If campaigners can gain 7.5 per cent support from the local population this would represent a significant achievement and demonstrate sufficient support to trigger a review. However, this is still only the first step in the process and in no way a guarantee that a new council will be created.
61. A key consideration for the local authority in undertaking a review is to establish the extent of the support for a new council across the local population – in a consultative exercise. This provides sufficient safeguards to ensure that the local community likely to be affected by the outcome is given every opportunity to voice their support or objection before the local authority reach a decision.

**Comments relating to an increased likelihood of the creation, fragmentation and dissolution of new councils against the wishes of the local authority**

62. Three respondents expressed views that the new measures might result in the creation, fragmentation and/or dissolution of town and parish councils against the wishes of the principal authority.

**Government Response:**

63. Whilst the Government is committed to supporting the establishment of town and parish councils, it strongly believes that councils should not be imposed on communities and only created where sufficient community support exists. Equally, the Government does not wish to see the break-up or dissolution of parish councils against the wishes of the majority of the local community. For this reason, the new measures will not erode the safeguards in the legislation or result in unsupported changes to communities. A local authority can reject a proposal for a new council, if it evidences there is insufficient support or other compelling factors that suggest a new council should not be formed. Similarly in terms of a change to an existing council, this will remain as it currently stands in the legislation, a decision for the local authority, following a governance review which will take into account the views of the local community

### **Shortening the amount of time the local authority can take to complete a community governance review**

64. One respondent further indicated that section 93(8) needed to incorporate provision for the completion of reviews instigated by the local authority, particularly in the absence of a petition or application being received.

#### **Government Response:**

65. The Government considers that the existing legislation already ensures that there is a requirement for local authority to conduct thorough and complete reviews.

### **Allowing Neighbourhood Forums to trigger a community governance review**

66. One respondent objected to the third new measure that aims to support those Neighbourhood Forums, with the requisite support for their Neighbourhood Plan to be better able trigger community governance reviews. However, the respondent did not give a reason for this objection.

#### **Government Response:**

67. It is not possible based upon the limited detail provided by the respondent to provide a considered response, because it is unclear the reason for the respondent's objections held against this particular proposal. However, the Government would refer to the benefits related to this particular measure outlined under Section 2: Background to the Order and the Case for amendments to the legislation and reiterate the point that the forums will have already demonstrated an appropriate level of community support by having a plan successfully adopted after a referendum. The Government would maintain that enabling Neighbourhood Forums to bypass the need to complete a petition will not increase the number of vexatious reviews that the council must consider.

### **Internal Reviews**

68. Two respondents expressed the view that the Government should introduce an appeals process.

#### **Government Response:**

69. The Government has already given consideration to the proposal to introduce a right of appeal into the community governance review process, in particular in relation to allowing campaigners the opportunity to appeal against the local authority's decision. The outcomes from the public consultation did not suggest that there was strong support for an appeal process. 76 per cent (58) of respondents did not express a view either way on this proposal, with only 16 per cent (12) of respondents submitting favourable comments about a mechanism that allowed a right of appeal. The Government therefore did not

consider there to be compelling evidence to support the introduction of a right of appeal.

70. The Government is currently in discussion with the Local Government Boundary Commission as part of the review of the Community Governance Review Guidance to consider updating the guidance to recommend that local authorities establish a robust internal review process.

# Annex A

## List of Consultees

### Non-Government Departments

National Association of Local Councils

[Through the National Association of Local Councils the proposal will be brought to the attention of those bodies' County Associations and the parish and community councils that make up their membership].

Society of Local Council Clerks

# Annex B

## List of relevant statutes

The Local Government and Public Involvement in Health Act 2007  
the Legislative and Regulatory Reform Act 2006