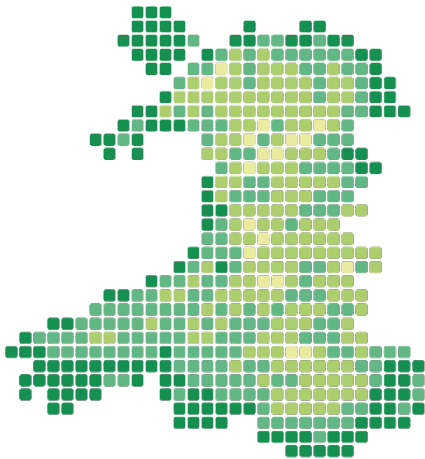


# LOCAL DEMOCRACY AND BOUNDARY COMMISSION FOR WALES



Comisiwn Ffiniau a  
Democratiaeth Leol  
Cymru

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Local Democracy and  
Boundary Commission  
For Wales

## GUIDANCE FOR PRINCIPAL COUNCILS ON THE REVIEW OF COMMUNITIES

September 2022

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## FOREWORD

In this document the Commission has set out its guidance on how to conduct community reviews under sections 25 and 31 of the Local Government (Democracy) (Wales) Act 2013. Principal councils have a duty to report to the Commission on their community arrangements every ten years.

The legislation that covers community reviews is the Local Government (Democracy) (Wales) Act 2013 (the Act). Under the Act the Local Democracy and Boundary Commission for Wales (the Commission) has a general duty to monitor arrangements for local government across Wales. Each principal council however has a duty to monitor the communities in its area and, where appropriate, the electoral arrangements of such communities for the purposes of considering whether to make or recommend changes. These changes are brought about by means of community boundaries reviews and community electoral reviews. A community boundaries review conducted by the principal council under section 25 of the Act is brought into effect by an Order by the Commission. A community electoral review conducted by the principal council under section 31 of the Act is brought into effect by an Order by the principal council.

There are two audiences in mind in the drafting of this document. Primarily this is a guide for principal council officers in the conduct of a review of their communities. It has also been drafted to inform interested parties, in particular the town and community councils of Wales, as to how the process should operate. Community councils have the opportunity, through their engagement in community reviews, to ensure that the boundaries of their community reflect how their community operates on the ground and that the representation of their constituents is appropriate.

The Commission welcomes correspondence in Welsh and English.  
Mae'r ddogfen hon ar gael yn y Gymraeg.

# LOCAL DEMOCRACY AND BOUNDARY COMMISSION FOR WALES

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## 1. CONTEXT

- 1.1 This Community Review Guidance has been produced to assist and help to ensure consistency in the conduct of community reviews by principal councils. It explains the statutory processes that should be followed, and the best practice developed by principal councils over time.

### Communities

- 1.2 There can be some confusion over what is meant by the word community. It means different things to different people. Some may consider it to be the street in which they live, others a broader village area, others much larger areas. All of these are entirely accurate and reflect the lives of people and the differences and similarities of places where we live, work and interact. However, in Wales there is an additional and more technical meaning.
- 1.3 For the purposes of this guidance, a community is the first layer of local government and is used to build electoral wards at principal council level. Community areas cover the whole of Wales, so wherever you live you will be in a community. Many, but not all, of the community areas have an elected town or community council that provides services to their community area. Most councils of community areas are known as community councils, but some communities have the status of a town and are known as town councils. Communities may be divided for electoral purposes into community wards.

### Community Reviews

- 1.4 From time to time, there may be a need to make changes to community areas due to shifts in the population. Such changes may involve changes to the boundary of the community and, where a community council exists, changes to the electoral arrangements for the community council. These changes are predominantly achieved by means of community reviews under the Local Government (Democracy) (Wales) Act 2013 (the Act).
- 1.5 Under the Act, the Local Democracy and Boundary Commission for Wales (the Commission) has a general duty to monitor arrangements for local government across Wales. Each principal council however has a duty to monitor the communities in its area and the electoral arrangements of those communities for the purposes of considering whether to make or recommend changes. These changes are brought about by means of a community boundaries review or a community electoral review. Both the Commission and the principal councils, when carrying out their duties, are required by the Act to seek to ensure effective and convenient local government.
- 1.6 The statutory process for conducting a community review is set out in Part 3 of the Act. This lays down basic criteria for conducting a review, the appropriate considerations and the procedure.
- 1.7 There are two different types of community review that may be carried out by principal councils, which are subject to different sections of the Act:

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- Section 25 – a review of community boundaries (which is described in this guidance as a “**section 25 boundaries review**”); and
- Section 31– a review of the electoral arrangements of a community (a “**section 31 electoral review**”).

### **Principal Councils’ duties to monitor, report and review**

- 1.8 Principal councils are required by the Act to monitor the communities in their areas and the electoral arrangements of those communities, and to carry out reviews where the Act requires them to do so or where they otherwise consider it appropriate.
- 1.9 Principal councils are also required to publish a report every 10 years on how they have complied with their duties to monitor and review. A report should describe any processes that the principal council has gone through and decisions it has made in this context.
- 1.10 In order to discharge its duties under the Act, the principal council should maintain a mechanism to identify potential changes to communities such as new housing developments or shifts in electorate. This may be achieved by a combination of periodic consultation with the community councils and ongoing consideration of community boundaries and electoral arrangements when considering issues such as planning (including the preparation of development plans) and electoral administration.
- 1.11 When a principal council identifies the need for a review of or changes to its communities (or their electoral arrangements), the Commission recommends that the council should consider first whether it is necessary to review the boundaries of its communities (and if so carry out a review under section 25 of any relevant communities) and thereafter consider whether it is also necessary to carry out electoral reviews under section 31 in relation to any communities.
- 1.12 A review of community boundaries under section 25 should ensure that communities continue to reflect local identities and facilitate effective and convenient local government. For example, over time communities may expand with new housing developments. This can lead to boundaries becoming anomalous, for example if new housing is built across boundaries resulting in confusion over which community a housing estate falls into. A community review offers an opportunity to the principal council to put in place strong, clearly defined boundaries tied to ground features, and to remove any anomalous boundaries that exist.
- 1.13 If the principal council recommends boundary changes in the course of a section 25 review, it is also able to recommend changes to the community council and to electoral arrangements for the communities that are affected by the boundary changes. This can be done as part of the same section 25 review, enabling the principal council to make recommendations for the electoral consequences of boundary changes. This is described in more detail in section 2 of this guidance, under the heading “Outcomes”.

- 1.14 In contrast, if the principal council has not carried out a boundary review for particular communities or identifies issues within the electoral arrangements for one or more communities independent of any boundary issues, the principal council should then consider whether those communities should be the subject of community electoral reviews under section 31.
- 1.15 The Commission recommends that, when considering whether to carry out community electoral reviews for communities, principal councils consider in particular the degree to which “electoral parity” is achieved across the communities in their area, and (where an individual community is divided into community wards) across the wards in the community. For example, if a community has a higher number of electors per councillor than other communities in the principal council’s area, the principal council may wish to carry out a community electoral review with a view to considering whether to recommend an increase in the number of community councillors for that community. If the number of electors per councillor varies significantly between different wards within a community, the principal council may wish to carry out a community electoral review for the purposes of considering a different allocation of councillors to the individual community wards.

### **Community reviews by the Commission**

- 1.16 In some circumstances the Commission is able to conduct community reviews in place of the principal council.
- 1.17 The Commission is able (but not obliged) to conduct a community boundaries review under section 26 of the Act in the following circumstances:
- where the principal council and the Commission have agreed that the Commission will carry out a community boundaries review in place of the principal council;
  - if the principal council has not complied with a direction from the Welsh Ministers requiring that a section 25 review be carried out;
  - where the principal council has carried out a section 25 boundaries review and recommended that no boundary changes should be made; or
  - where the Commission, in its capacity as implementing authority, disagrees with the recommendations made by a principal council following a section 25 review, or considers that the review process adopted by the principal council was defective.
- 1.18 The Commission has power to recover its costs of a section 26 review from the principal council if the Commission has carried out the review because the principal council failed to comply with a direction from the Welsh Ministers, or because the Commission considers that a review process carried out by the principal council was defective. The Commission may also require that the principal council meet its costs as a condition of the Commission’s agreement to carry out a boundaries review in the place of the principal council.

1.19 The Commission is also able (but not obliged) to conduct community electoral arrangements review under section 32 of the Act in the following circumstances:

- where the principal council and the Commission have agreed that the Commission will carry out such a review in place of the principal council (in which context the Commission may require that the principal council meet the Commission's costs of the review as a condition of the Commission's agreement);
- where the principal council has not complied with a direction from the Welsh Ministers requiring that a section 31 electoral review be carried out (in which context the Commission has power to recover its costs of the review from the principal council); or
- where the community council, or a group of not less than 30 local government electors from the community, submit a request for a review to the Commission (rather than to the principal council).

## 2. COMMUNITY REVIEWS – LEGAL PROCESS AND CONSIDERATIONS

- 2.1 In this guidance the Commission will address both statutory obligations and best practice recommendations for principal councils conducting community reviews in Wales.
- 2.2 This section describes the legal process and considerations for community reviews carried out by principal councils, as well as the constraints laid down by the Act on the outcome of reviews. However it is not a substitute for, and should not be relied on as, legal advice, and nor does it attempt to provide a complete account of the law relevant to a review. When conducting a community review a principal council must also consider its other statutory obligations related to the review – for example obligations under the Wellbeing of Future Generations Act 2015, Welsh Language Standards and the Equality Act 2010, which will all influence and inform the conduct and decisions made during the course of a community review.
- 2.3 Section 3 of this guidance then addresses best practice recommendations for the conduct of community reviews.

### **Situations in which a community review may be carried out**

- 2.4 There are three key situations in which a community review may be carried out:
1. Where it is requested by a community or town council or by the residents of a community (in the form of a “community meeting” for the purposes of a section 25 boundaries review, or a request from 30 or more electors for the purposes of a section 31 electoral review);
  2. At a principal council’s own initiative (including where the principal council decides to carry out a community review in preparation for the Commission’s programme of reviews of principal council electoral arrangements); and,
  3. Following a direction from the Welsh Ministers.
- 2.5 Principal councils have a duty under the terms of the Act to publish a report and submit the report to the Commission on their community arrangements every ten years. The Commission is also required to conduct electoral reviews of principal councils every ten years. Ideally a community review should precede an electoral review by the Commission of the principal council, as the community and community wards within the principal council’s area will be used as the primary building blocks for principal council electoral wards. However, a principal council may commence a review at their own initiative at any time, so long as the principal council complies with its duty to have regard to the Commission’s timetable for its principal area electoral reviews (see section 22(2)(a) of the Act).

2.6 A principal council may also conduct a community review where it receives a request from a community in its area. In this context:

- A community council or a community meeting may request that the principal council carries out a section 25 boundaries review in relation to that community and/or other communities within the principal council's area. When it receives such a request the principal council may conduct a section 25 boundaries review of one or more communities in its area, but is not obliged to do so.
- When a principal council is considering whether to carry out a section 25 boundaries review in response to a request from a community in its area, the Commission recommends that the principal council should consult with the Commission. This is principally to ensure that the Commission (as implementing authority) will have sufficient time to implement any resulting recommendations. The principal council should also consider whether (and if so how) the requested review may impact on the principal council's functions and/or on the Commission's timetable for its periodic reviews of the principal council's electoral arrangements.
- A community council or a group of not less than 30 local government electors registered in the community may request that the principal council carries out a section 31 electoral review in relation to that community. When it receives such a request the principal council may conduct the review, but is not obliged to do so. When it is considering whether to conduct a section 31 review in response to such a request, the principal council should again consider whether (and if so how) the requested review may impact on the principal council's functions and/or on the Commission's timetable for its periodic reviews of the principal council's electoral arrangements.

2.7 If a principal council is directed to conduct a review by Welsh Ministers it should do so in accordance with that direction, utilising this guidance where applicable.

### **Conducting a review – legal constraints**

2.8 The Act regulates:

- the process for conducting community reviews;
- the outcome of community reviews; and
- the implementation of changes that are proposed at the conclusion of community reviews.

2.9 The statutory process that a principal council must follow when conducting a community review is, in large part, the same for both section 25 boundaries reviews and section 31 electoral reviews. The relevant legal rules for the two types of review differ only in relation to the outcome, and the implementation of the outcome, of the review.

## Process

2.10 Sections 35 and 36 of the Act require that a principal council carrying out a community review must take four essential steps:

- Initial publicity;
- Initial investigation and consultation;
- Draft proposals (and consultation on those proposals); and
- Final recommendations

### *Initial publicity*

2.11 Before the formal commencement of a community review, the principal council is required to:

- publicise the review (specifically to bring it to the attention of the “mandatory consultees” listed in section 34 of the Act, as well as of anyone else the council thinks is likely to be interested); and
- draw attention to any directions given by the Welsh Ministers which are relevant to the review.

2.12 Whilst carrying out the review it is good practice to set up a cross-party working group to draft the Terms of Reference, consider the consultation responses and to agree any proposals. Setting up a cross-party group allows for cooperation between the political parties and can facilitate endorsement at Full Council. The Commission saw the benefits of cross-party working groups set up to work on boundary changes during its last round of electoral reviews where some principal councils had established such working groups.

2.13 At this stage the principal council can (but is not obliged to) consult interested parties on its proposed methodology for the review – including matters such as the terms of reference and underlying policies. This is addressed in section 3 of this guidance, under the sub-heading “Terms of Reference”.

2.14 If a principal council is carrying out a “pre-review” consultation of this nature, the consultation period should be long enough to provide a reasonable opportunity for interested parties to respond. Where a principal council is not carrying out a pre-review consultation, the “initial publicity” stage can usually be short.

### *Initial investigation and consultation*

2.15 A principal council formally commences a community review by:

- consulting the “mandatory consultees” listed in section 34 of the Act; and

- conducting its own “investigations”.

2.16 The purpose of this stage of the review is to enable the principal council to gather information it will need when considering and preparing any proposals for change (at the second stage). The Act does not dictate how long the initial investigation and consultation stage should last, but a principal council should allow long enough that interested parties have reasonable period to respond (and the principal council can gather relevant information). A period of between 6 and 12 weeks is commonly considered to be best practice.

2.17 In order to enable interested parties to participate properly in the initial consultation, the principal council will need to provide information about the review. This is likely to include details of the existing arrangements (for example about existing community boundaries and councils for a section 25 boundaries review, and existing electoral arrangements for a section 31 electoral review) and an account of the reasons why the principal council has commenced the review. If the council has identified “issues” that the review will address, this information should be provided to consultees also.

2.18 During the initial stage the Act requires the principal council to carry out “such investigations as it considers appropriate”. In this context, a principal council should investigate and consider its number of local government electors via its electoral register, the population eligible to vote which can be sourced from the Office for National Statistics mid-year estimates which are published annually. The principal council should also consider the five year projected number of electors within its area, this can be derived by the principal council and is requested by the Commission as part of any electoral arrangement review it undertakes.

### *Draft proposals*

2.19 At the second stage of a community review, a principal council must:

- prepare a report that provides details of the review it has conducted, and sets out any proposals for change that the council considers appropriate (or a proposal that no changes are made) – which is commonly known as a “Draft Proposals Report”; and
- carry out a consultation on its proposals.

2.20 For this purpose, the principal council will need to consider the information it has gathered during the initial consultation stage (both as a result of representations from interested parties and by means of its own investigation) and take that information into account in deciding whether to make proposals for change (and if so what proposals to make). A proposal does not have to reflect or be precipitated by a representation from an interested party, but must be arrived at by taking into account the relevant information available to the council, and in a manner that complies with the Act and with any relevant policies and procedures of the principal council (such as the procedures set out in any Terms of Reference, as to which see section 3 below).

- 2.21 In the creation of any new names it is good practice for the principal council to consult the Welsh Language Commissioner (WLC). The WLC is responsible for advising on the standard forms of Welsh place-names. The WLC has convened a Place-names Standardisation Panel to provide recommendations and expert advice in this field. In forming its recommendations, the Panel follows national standardisation guidelines and also gives consideration to the meaning, history and etymology of the place-names, as well as their usage.
- 2.22 It is normal practice for the council's officers to produce an "internal" report for the approval of the principal council. Once that internal report is approved, the principal council will prepare and consult on its formal Draft Proposals Report.
- 2.23 Any proposals for change that are included in a Draft Proposals Report must be proposals that the principal council will have power to make or recommend at the outcome of its review. Proposals must therefore be made in the light of the legal constraints affecting the outcome of community reviews. This is addressed below, under the heading "Outcomes".
- 2.24 In order to consult on the proposals in its Draft Proposals Report the principal council must publicise the report (in the specific ways set out in section 35(3) of the Act) and invite "representations" in relation to the report. The principal council must also decide on and publicise the consultation period (i.e. the period of time during which representations can be submitted). The Act requires that the consultation period is not less than 6 weeks, nor more than 12 weeks, beginning no earlier than one week after the council provides notice to interested parties of the relevant time period.
- 2.25 Notice of the consultation period can be given by means of letter and email, notices placed on principal council and community council noticeboards, principal council and community council websites, social media and by any other means that the principal council considers appropriate. It is good practice for the notification to include details of the draft proposals and maps (or details of how and where to access maps) and to ask the community councils and all interested parties, including the general public, to make comments on the draft proposals.
- 2.26 The Draft Proposals Report must be published electronically and must be available for inspection (without charge) at the offices of the principal council for the duration of the period for representations. The report must also be sent to Welsh Ministers and mandatory consultees and all others who responded at the preliminary stage must be informed how to obtain a copy of the report.
- 2.27 In addition, some principal councils have undertaken road shows, meeting each community affected by the review in order to discuss the proposals and encourage representations which support or oppose proposals, or offer alternative suggestions.

### *Final proposals*

2.28 At the final stage of a community review, the principal council is required to:

- consider its proposals for change in the light of any representations it has received during the consultation on its Draft Proposals Report; and then
- publish its final report.

2.29 The principal council's final report must give details of the review and the consultation that the council has conducted and any changes to the council's proposals that the council has decided to make in the light of representations it received during consultation.

2.30 The final report must also express the principal council's conclusions. In a section 25 boundaries review, those conclusions will take the form of "recommendations for change" that the council considers appropriate (or a recommendation that no changes are made). In a section 31 electoral review, the conclusions will take the form of changes that the council "intends to make" (or a statement that the council does not intend to make changes). These differences reflect the different arrangements for implementing the outcomes of community reviews, which are described below under the heading "Implementing changes".

2.31 The possible outcomes of a community review are also constrained by provisions of the Act which determine the recommendations and changes that a principal council has power to make. This is described in the following section, under the heading "Outcomes".

2.32 Especially at final report stage, it may on occasion be necessary for difficult decisions to be confronted by officers and the principal council where the arrangements that appear most appropriate may not be popular with local residents. In these areas innovative solutions may need to be sought. Alternatively, it may be necessary to make a robust evidence-based case in favour of arrangements that face strong or considerable opposition. The Commission will endeavour to provide any informal advice it can in these instances or offer differing options for the principal council to consider. Decision-making in these areas needs to be clear and evidence based.

2.33 The principal council is required to publish its final report and make it available to various interested parties, as detailed in section 36(5) of the Act. In broad summary, the principal council should publish its final report in the same manner as its Draft Proposals Report. A copy of the final report must be sent to the mandatory consultees, Ordnance Survey and the Welsh Ministers, and all others who responded at the earlier stages must be informed how to obtain a copy of the report.

## Outcomes

- 2.34 As explained in section 1 of this guidance, section 25 boundaries reviews and section 31 electoral reviews have a different purpose and focus.
- 2.35 A section 25 boundaries review is a review of the boundaries of one or more communities within the principal council's area. This may be appropriate in particular if new housing developments have made significant differences to the map or to living arrangements within an area, if there are anomalies not identified in previous reviews (for example, golf courses split across two communities or areas where a small road or cul-de-sac is 'split off' from the rest of their community), or if there are changes to water courses or farms.
- 2.36 A section 31 electoral review does not address the boundaries of the community under review but looks instead at the arrangements for representation on the community council within a given community.
- 2.37 This difference is reflected in the different potential outcomes for a community review.
- 2.38 The principal council should consider how to give effect to the Order, they should also alert Welsh Government on the establishment of new community councils and the impact it has on setting precepts.

### *Community boundaries reviews under section 25*

- 2.39 At the conclusion of a section 25 boundaries review, the principal council may recommend "community boundary changes". These are defined in section 23(4) of the Act as including changes to the boundary of an existing community, but also the abolition of an existing community and the creation of a new community.
- 2.40 Where a principal council recommends community boundary changes at the conclusion of a section 25 boundaries review, it also has power to recommend consequential "community council changes" and "associated changes to the electoral arrangements" of one or more of the communities under review or of the principal area. For this purpose, "community council changes" are defined in section 23(4) as meaning the dissolution of an existing community council, the establishment of a new community council, or the addition of communities to (or subtraction of communities from) a common community council. Recommendations submitted by the principal council should be explicit with regard to the town or community councils involved in such changes. According to section 31(7) of the Act, the "electoral arrangements of a community" refers to the number of members of the community council and any arrangements for the division of the community into wards for the purposes of elections to the community council (including the number, boundaries and names of wards and the number of members per ward). The "electoral arrangements of a principal area" are given a corresponding meaning by section 29(9).

- 2.41 Community boundary changes will often result in changes to the populations of affected communities. For example, if an area is incorporated into a new community due to the position or road connections of a new housing development, that same area will necessarily be taken out of the community of which it previously formed part. As a consequence, both the enlarged community and the reduced community may benefit from consequential changes to their community council and/or electoral arrangements, particularly if there is a change in the number of local government electors in both communities that will be brought about by the boundary change.
- 2.42 A principal council that proposes to recommend changes to community boundaries should therefore also consider whether consequential changes to community councils and community electoral arrangements should be made. This could affect more than one community in the vicinity of a new housing development (for example). Accordingly, when commencing a section 25 boundaries review, a principal council should consider carefully which communities are included within the review, in the light of the issues or developments that have prompted the review, in order to ensure that relevant communities are “captured” by the review and the principal council therefore has powers to address any issues fully.
- 2.43 Sections 30 and 33 of the Act lay down specific matters that a principal council must take into account when considering changes to the electoral arrangements of a community or a principal area. This is described in the following section, in relation to section 31 electoral reviews.

### *Community electoral reviews under section 31*

- 2.44 At the conclusion of a section 31 electoral review, a principal council is entitled to “propose and make” changes to the electoral arrangements for the community under review, as well as consequential changes to the electoral arrangements of the principal area.
- 2.45 As noted above, the “electoral arrangements of a community” refers to the number of members of the community council and any arrangements for the division of the community into wards for the purposes of elections to the community council (including the number, boundaries and names of wards and the number of members per ward).
- 2.46 When a principal council is considering changes to the electoral arrangements of a community, it will need to decide whether the community should be divided into wards for the purposes of elections to the community council. Section 33 of the Act requires that, when a principal council considers whether a community should be divided into community wards, the council must consider whether the number or distribution of the local government electors for the community is such as to make a single election of community councillors impractical or inconvenient, and whether it is desirable that any area of the community should be separately represented on the community council.

- 2.47 If the principal council decides that the community council should *not* be divided into wards, it will need to determine the number of councillors for the community. When it makes that determination, section 33 of the Act requires that the principal council have regard to the “number and distribution” of local government electors in the community, and any change in that number or distribution that is likely to take place in the following five years.
- 2.48 If a principal council decides that a community *should* be divided into wards, it will need to fix boundaries for the wards and determine the number of community councillors for each ward. In resolving those matters, the principal council is required by section 33 of the Act to take into account the desirability of fixing boundaries that are easily identifiable, any local ties that might be broken by particular ward boundaries, and any change in the number or distribution of local government electors in the community that is likely in the next five years. It is the Commission’s view that, whenever possible, new boundaries should follow features that can be identified both on detailed maps and “on the ground”.
- 2.49 In addition, when considering these changes, principal councils must take into account any discrepancy between the number of registered electors and the population in the community that is eligible to vote. The Commission also recommends that (in the interests of effective and convenient local government) principal councils consider questions of electoral parity (i.e. the number of electors per elected councillor) both within the individual community and more broadly within all communities in the principal council’s area.
- 2.50 A principal council also has powers to make changes to the electoral arrangements of the principal area at the outcome of a section 31 electoral arrangements review, where those changes are a “consequence of” any changes to the electoral arrangements of a community. According to section 29(9), the “electoral arrangements of a principal area” refers to the number of members of the principal council, as well as the arrangements for the division of the principal area into wards for the purposes of elections to the principal council.
- 2.51 The primary duty to review the electoral arrangements of principal areas is imposed on the Commission by section 29 of the Act. In that context, the Commission usually regards communities and community wards within the principal area as the “building blocks” for principal council electoral wards.
- 2.52 For this reason, where a principal council proposes a change to a community or community ward boundary that mirrors a principal council electoral ward boundary, it is normal practice to also propose a consequential change to the arrangements for the principal council electoral ward. Ordinarily, if a minor change is proposed consideration can be limited to a simple shift of the boundary. However, if significant changes are made the principal council will need to consider the consequences for the principal area electoral arrangements, including the possible creation of new electoral wards and possible changes to the number of members representing any new or

significantly changed wards. These should be proposed at the same time as any change to communities and their wards, if appropriate.

2.53 Where a principal council is considering whether to recommend or make changes to the electoral arrangements for a principal area, it is required to comply with section 30 of the Act (see sections 25(4) and 31(4)). It must therefore seek to ensure, as nearly as possible, that there is electoral parity (i.e. the same ratio of local government electors to council members to be elected) across every electoral ward in the principal area – taking into account both changes to the number and distribution of electors that are likely over the following five years, and any discrepancy between the number of registered electors and the eligible population in the principal area. The principal council must also have regard to the desirability of fixing electoral ward boundaries that are easily identifiable, and to the desirability of preserving local ties when fixing electoral ward boundaries.

### **Implementing changes**

2.54 The Act lays down different mechanisms for implementing the outcomes of section 25 boundaries reviews and section 31 electoral reviews, as well as of community electoral arrangements reviews carried out by the Commission pursuant to section 32. Those arrangements are described in this section.

#### *Community boundaries reviews under section 25*

2.55 The Commission is the “implementing authority” for section 25 boundaries reviews. Accordingly, upon completion of a section 25 review, the principal council is required to submit its report to the Commission.

2.56 Upon receiving the principal council’s report, the Commission has a choice:

- it can implement the principal council’s recommendations without modifications;
- it can implement the recommendations with modifications that are agreed with the principal council;
- it can choose to conduct its own review; or
- it can take no action.

2.57 Section 38(1) of the Act specifically provides that the Commission may choose to conduct its own review if the Commission “does not consider it appropriate to implement any of the council’s recommendations”, or if the Commission is unable to reach agreement with the principal council on modifications to the recommendations that “the Commission considers necessary for it to implement them”. However the Commission has broader powers under section 26 of the Act to conduct its own community boundaries review, including where the principal council has recommended that no community boundary changes

should be made, and where the Commission considers that the principal council's review process has been defective.

- 2.58 Accordingly, when it receives a final report from a principal council following a section 25 boundaries review, the Commission will give its own consideration to both the process carried out by the principal council and to the substance of the recommendations and whether it results in effective and convenient local government. For this purpose, the Commission asks principal councils to provide, alongside final reports, copies of any information pertinent to the review to satisfy the Commission that the principal council has conducted the review in accordance with the Act. This will include (among other things) any presentation materials, copies of publication materials, communications with stakeholders, representations received from third parties, reports to relevant scrutiny committees and full principal council and the minutes of those meetings.
- 2.59 In this context, the Commission will principally consider whether there are clear substantive or procedural flaws that have affected the principal council's review or its recommendations. Where there is reasonable scope for disagreement – for example as to precisely where a boundary is drawn – the Commission will not usually reject or seek to modify a council's recommendations simply because the Commission might have recommended a different outcome. However where a recommendation has clear disadvantages that could be avoided by a modification, the Commission may seek the principal council's agreement to that modification – such as where a recommended boundary change would leave a geographical anomaly.
- 2.60 As described in section 4 of this guidance, the Commission is generally willing to share its expertise where to do so may assist a principal council, and the Commission welcomes informal discussions for the purposes of assisting principal councils to plan and execute community reviews. As part of its normal practice the Commission endeavours, by means of regular communication with principal councils, to avoid situations in which recommendations resulting from section 25 reviews are not implemented or must be substantially modified.
- 2.61 Section 38(2) of the Act requires that the Commission wait for a period of six weeks after receiving the principal council's report before making any implementing order. That period is not a formal consultation period, but it is often the case that interested parties wish to comment on the recommendations made in the principal council's report. Any such comments during that period should be sent to the Commission, which will acknowledge receipt. The Commission's normal practice is to take into account comments that it has received and acknowledged in deciding what action to take as implementing authority.
- 2.62 Section 38(3) of the Act provides that, if the Commission's implementing order will make changes to the electoral arrangements of a principal area, the Commission must first obtain the consent of the Welsh Ministers. If, having considered what action to take as implementing authority for a section 25 boundaries review, the Commission proposes to implement a change to the

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principal council's electoral arrangements which is consequential on community boundary changes, the Commission will therefore consult with the Welsh Ministers.

### *Community electoral reviews under section 31*

- 2.63 The principal council is itself entitled to implement, by making an order, intended changes that are described in its final report in a section 31 electoral arrangements review. However section 39(2) of the Act requires that the principal council wait for a period of 6 weeks from publication of its final report before making any order. If the principal council's proposed order would make consequential changes to the electoral arrangements of the principal area, the principal council must first obtain the consent of the Welsh Ministers.
- 2.64 Any Order made by the principal council should be sent to the Welsh Government, Ordnance Survey, the Commission and to any body affected by the changes such as town or community councils.
- 2.65 It is common practice that changes made in Orders by the Commission, principal councils and Welsh Government will come into force at the first ordinary council election following the date on which the Order is made.

### *Community electoral reviews by the Commission under section 32*

- 2.66 As noted in section 1 of this guidance, section 32 of the Act gives the Commission the power to carry out reviews of the electoral arrangements of communities in certain circumstances. When the Commission does so, the principal council for the relevant area will be the implementing authority for the purposes of the Act, and the Commission will submit its final report and recommendations to the principal council.
- 2.67 When it receives a final report of this nature from the Commission, a principal council can either implement the recommendations as made by the Commission, implement the recommendations with modifications that have been agreed between the principal council and the Commission, or decide to take no action: see section 39(3) of the Act.
- 2.68 If the principal council decides to make an implementing order it must first wait 6 weeks from the date on which it receives the Commission's final report. While this is not a formal consultation period, experience suggests that interested parties may submit comments on the Commission's recommendations to the principal council during this period. In similar situations, the Commission's normal practice is to acknowledge comments received and take them into account in determining what (if any) implementing action to take. Principal councils may wish to consider proceeding similarly.
- 2.69 If the principal council decides to take no action, or 6 months have elapsed since the council received the Commission's report and no implementing order has been made, the Commission will be entitled under section 39(7) of the Act

to refer to the matter to the Welsh Ministers and request that they make an implementing order.

### 3. COMMUNITY REVIEWS – BEST PRACTICE

- 3.1 Best practice in the conduct of community reviews has evolved over time and has been the subject of handbooks published by the Association of Electoral Administrators. This is not to say that every principal council across Wales has followed these best practice recommendations, but many do.
- 3.2 The aspects of best practice described in this section are recommended to be carried out alongside, and incorporated into, the statutory process described in the preceding section. They are not a substitute for complying with the requirements of the Act.
- 3.3 This section addresses the following aspects of best practice:
- Terms of Reference for reviews;
  - Council Size Policies; and
  - The amalgamation and grouping of communities

#### Terms of Reference

- 3.4 Whilst not a requirement of the Act, it has become common practice for principal councils to develop and publicise Terms of Reference (“**ToR**”) for a community review.
- 3.5 The ToR will usually set out the proposed timetable and procedures for the review, provide guidance and set out the issues that will be considered during the course of the review. Provision of a ToR allows the principal council to ensure that it is seen to be following a set procedure and taking into account appropriate considerations for the review, and allows interested parties to understand how to effectively engage in the review. It also provides the Commission (where the Commission is the implementing authority) with information as to whether the principal council has appropriately conducted the review under the terms of the Act.
- 3.6 Among other things, the ToR for a review might therefore contain: An indicative timetable for the review
- a description of the process the principal council will follow
  - Information as to relevant considerations during the review – which might include explanations of:
    - the Council Size Policy (see 3.11 below)
    - Considerations as to the grouping and amalgamation of communities (addressed further below);

- Matters which must be taken into account by the principal council pursuant to the terms of the Act, for example when considering changes to electoral arrangements (as referred to in section 2 of this guidance, above)
  - An outline of the permissible outcomes of the review and any limitations imposed by the Act on the principal council's ability to recommend or make changes.
- 3.7 The principal council may wish to informally consult with the Commission or colleagues from other principal councils in the drafting of the ToR. The principal council may also wish to consult with the Welsh Language Commissioner when considering Welsh language community or community ward names as part of the community review process.
- 3.8 Once a draft ToR has been agreed by the relevant principal council authority, it may be appropriate in some circumstances to consult interested parties on the contents of the ToR. As noted in section 2 of this guidance (under the heading "Initial publicity"), a consultation of this nature will occur prior to the commencement of the review, and the consultation period should be long enough to provide a reasonable opportunity for interested parties to respond. It is common practice in this context for a consultation period to be between 6 and 12 weeks long.
- 3.9 A "pre-review" consultation of this nature will introduce additional delay, so is more likely to be appropriate for large-scale community reviews (such as a section 25 review of the boundaries of all, or numerous, communities within the principal area) rather than for small-scale reviews (such as a section 31 review of the electoral arrangements of one community only). Any "pre-review" consultation will not replace or remove the need for the initial consultation that must be carried out upon formal commencement of a community review, nor the consultation in relation to the principal council's Draft Proposals Report (both of which are described in section 2 of this guidance).
- 3.10 Once a "pre-review" consultation has ended, any representations received will need to be considered and a final ToR produced for approval by the principal council. Once the ToR is finalised, the principal council will be in a position to begin the review.

### **Council Size Policy**

- 3.11 Whilst not a requirement of the Act, it has become common practice for principal councils to develop, consult on and then publish a Council Size Policy. This is ordinarily included within a ToR.
- 3.12 The Council Size Policy creates a mechanism to determine, for the principal area's community and town councils, the appropriate number of community councillors for a given town or community based on the electorate of the community. Ideally it should ensure that representation on a community or town council is, as far as is practicable, the same across all the community councils within the principal area.

3.13 Issues a principal council may wish to consider when developing a council size model are:

- An approximate councillor allocation per electorate
- Provision of an overall minimum and maximum number of community councillors for a community council. Historically the minimum number of councillors for a community council has been 7, but some councils have used 6. The largest community council in Wales at present is 24. The maximum size may be dependent on the following factors (below) in this list.
- The existing community council sizes
- The scale of the activity of the community councils in a principal council area.
- The geography of the principal council area
- The population density of the principal council area

3.14 Each principal council may wish to determine its own policy, based on its own considerations. It may be that it wishes to discuss the modelling with the Commission or other principal councils. The Commission can provide examples of models utilised by other principal councils in previous reviews.

### **Amalgamation and Grouping of Communities**

3.15 A principal council may receive a request from a group of communities wishing to conduct their business together, allowing for cost savings or increased capacity to expand on their services or functions.

3.16 Alternatively, a principal council may take the view that in certain areas, or more widely across their principal area, they wish to delegate functions to the communities or towns within their jurisdiction. In doing so they may require communities or towns to be of a certain specific size, whether geographically or in terms of electorate, in order that the communities have sufficient capacity to discharge these duties.

3.17 In such circumstances consideration may be given to either grouping or amalgamating the existing community or town councils to provide that capacity.

3.18 Where a principal council wishes to apply such a model across its principal area it should consider setting out a Community Amalgamation / Grouping Policy. This policy should set out maximum and minimum sizes of the groups and any factors it is taking into consideration when creating group communities.

### *Amalgamation*

3.19 The amalgamation of communities involves the joining of two or more existing communities together to form one, new, larger community. The existing community councils are dissolved and a new separate community area and council are established. Consideration, as with all communities, should be

given to the warding of that new community. Unless specific considerations would suggest a different approach, it may be most appropriate for the wards of the new community to reflect the boundaries of the former communities that have been amalgamated.

### Grouping

- 3.20 A principal council may group two or more communities together under a common community council. However, unlike an amalgamation of communities, each community council (and community ward where appropriate) being grouped will continue to have separate representation on the common community council. For more information on common community councils please see the Local Government (Wales) Measure 2011, Part 7, Chapter 2.

## **4. ASSISTANCE FROM THE COMMISSION**

- 4.1 Due to the Commission's role, it has expertise in the conduct of reviews under the Act. The Commission is willing to share its expertise with principal councils where to do so may assist in the conduct of community reviews under the Act and may improve the process and outcomes of community reviews.
- 4.2 The Commission therefore welcomes informal discussions for the purposes of assisting principal councils to plan and execute community reviews. The Commission also recommends that it should be included in any consultation or information that is distributed by the principal council as part of a community review. Furthermore, principal councils may wish to share with the Commission drafts of materials to be used in a community review – such as descriptions of the process that are contained in Terms of Reference – for the Commission's comment. The Commission will endeavour to provide helpful responses, where it is able to do so within the constraints imposed by its functions and other work.

## APPENDIX 1 – GLOSSARY OF TERMS

<b>Commission</b>	The Local Democracy and Boundary Commission for Wales.
<b>Community (area)</b>	The unit of local government that lies below the level of the principal council
<b>Community Council</b>	An elected council that provides services to their particular community area. A community council may be divided for community electoral purposes into community wards.
<b>Community / Town ward</b>	An area within a community council created for community electoral purposes.
<b>Directions</b>	Directions issued by Welsh Ministers under Section 48 of the Act.
<b>Electoral wards</b>	The areas into which principal areas are divided for the purpose of electing county councillors, previously referred to as electoral divisions.
<b>Electoral review</b>	A review in which the Commission considers the electoral arrangements for a principal council.
<b>Electorate</b>	The number of persons registered to vote in a local government area.
<b>Interested party</b>	Person or body who has an interest in the outcome of a community review such as local electors, a community council, local MP or AM or political party.
<b>Mandatory consultees</b>	<p>The Local Government (Democracy) (Wales) Act 2013, in section 34 (as amended), stipulates the “mandatory consultees” for a community review as follows:</p> <ul style="list-style-type: none"><li>(a) Any local authority affected by the review,</li><li>(b) the police and crime commissioner for any police area which may be affected by the review,</li><li>(c) except where the review is (or is to be) conducted by it, the Commission,</li><li>(d) any organisation representing the staff employed by local authorities which has asked to be consulted,</li><li>(e) any fire and rescue authority for an area in Wales which may be affected by the review; and</li><li>(f) such other persons as may be specified by order made by the Welsh Ministers.</li></ul>
<b>Order</b>	Order made by an implementing body, giving effect to proposals made by the principal council or the Commission.
<b>Principal area</b>	The area governed by a principal council: in Wales a county or county borough

<b>Principal council</b>	The single tier organ of local government, responsible for all or almost all local government functions within its area. A county or county borough council.
<b>Projected electorate</b>	The five-year forecast of the electorate
<b>The Act</b>	The Local Government (Democracy) (Wales) Act 2013
<b>Town Council</b>	Community councils for communities which have the status of a town are known as town councils. A town council may be divided for community electoral purposes into wards.

## APPENDIX 2 – EXAMPLE TIMELINE

<b>Timeline (assuming 12 weeks of consultation at each stage)</b>	
Month 1	Identify if a Section 25 or Section 31 Review is being carried out. Set up cross party working group and agree on Terms of Reference
Month 2	Carry out initial publicity and publish Terms of Reference. Commence consultation on Terms of Reference (6-12 weeks)
Month 5	Initial investigation and consultation (6-12 weeks)
Month 9	Cross party working group and officials to consider results of the initial investigation and all representations received. Development of Draft Proposals.
Month 11	Publish Draft Proposals Report and consultation (6-12 weeks)
Month 15	Cross party working group and officials to consider all representations received. Development of Final Report.
Month 17	Endorsement at Full Council and Publish Final Report followed by submission to LDBCW if it is a Section 25 Review. If a Section 31 Review is undertaken, the Principal Council can make an Order 6 weeks after the Final Report is published.
Month 19	LDBCW to consider the Final Report and undertake its duty as the 'implementing authority'.

