

COMMUNITY GOVERNANCE REVIEW OF LOWESTOFT

TERMS OF REFERENCE

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1. INTRODUCTION

Setting the Context

At the Full Council meeting of Waveney District Council ('the Council') on 23 March 2016 it was resolved to conduct a Community Governance Review ('the Review') of the unparished areas of Lowestoft. The Council's preference and intention is for the whole of its area to be parished unless strong arguments are made for not doing so. A map of the area included within this Review is attached to this document at Annex A.

Such reviews are governed by legislation¹ and the Council is also required to have regard to any Guidance on Community Governance Reviews issued by the Secretary of State for Communities and Local Government. Such Government [Guidance](#) ('the Guidance') was last published in March 2010. The Guidance has been carefully considered before determining whether to conduct a Review and will continue to inform the process of this Review during 2016/17.

This document forms the Terms of Reference for the Review and it sets out clearly the matters on which the Review is to focus. In accordance with section 81 of the Local Government and Public Involvement in Health Act 2007 ('the Act') the Council has published these Terms of Reference for the Review on the Council's website, a communications strategy (Annex D) has been developed for the publication of the Review and the further stages of the Review. Hard copies of the Review documentation will be made available for inspection and copying at the Riverside² and Marina³ buildings in Lowestoft throughout the Review process.

Why is the Council undertaking the Review?

The Council unanimously adopted and published its latest Business Plan during 2015. It is a specific planned action within the Business Plan to "Conduct a Community Governance Review in relation to the unparished areas of Lowestoft".

Government guidance is that it is good practice to conduct such a review every 10-15 years, except in areas with very low populations. This area of Lowestoft has not been parished or reviewed since 1974. Since that time it has instead been represented by the Lowestoft Charter Trustees. The Charter Trustees are made up of the relevant District Councillors in this area and they only have 'civic and ceremonial' functions within the town (see section 5).

In January 2008 the Cabinet and Full Council decided that there should be a complete review of the democratic position within Lowestoft. This process was referred initially to the Overview and Scrutiny Committee to develop suitable terms of reference for such a review. This work was never completed however as it was superseded by the start (March 2008) of a full Boundary Commission, Local Government Review ('LGR') of Norfolk and Suffolk. The LGR was designed to establish new unitary council structures within the counties. The LGR was finally abandoned by the Government in December 2010.

The question of the democratic position for Lowestoft was not however re-opened at that time. In September 2014 the Council's Cabinet therefore reconsidered the issue as it was concerned that many, if not all, of the features present in 2008 that led to the Council starting

¹ In undertaking the Review, the Council will be guided by Part 4 of the Local Government and Public Involvement in Health Act 2007, the relevant parts of the Local Government Act 1972, Guidance on Community Governance Reviews issued in accordance with section 100(4) of the Local Government and Public Involvement in Health Act 2007 by the Department of Communities and Local Government and the Local Government Boundary Commission for England in March 2010, and the following regulations which guide, in particular, consequential matters arising from the Review: Local Government (parishes and Parish councils) (England) Regulations 2008 (SI2008/625); Local Government Finance (New Parishes) Regulations 2008 (SI2008/626).

² Riverside, 4 Canning Road, Lowestoft, NR33 0EQ

³ The Marina Customer Service Centre (next to the Marina Theatre), Lowestoft, NR32 1HH

such a review for Lowestoft ([CG1032 'A Voice for Lowestoft – Lowestoft Town Council Debate'](#)) are still present. The Cabinet resolved that “there is some merit in creating one or more new Town and / or Parish Councils in the currently un-parished areas of Lowestoft.”

What is a Community Governance Review?

A Community Governance Review is a legal process for the whole or part of a district area, to consider one or more of the following:

- creating, merging, altering or abolishing parishes;
- the naming of parishes and the style of new parishes;
- the electoral arrangements for parishes (the ordinary year of election; council size; the number of councillors to be elected to the council, and parish warding), and
- grouping parishes under a common parish council or de-grouping parishes.

A significant proportion of the Waveney District area has not been parished since Waveney District Council was created in 1974. This Review is therefore focused on considering whether to create one or more parish / town council(s) for this unparished area of Lowestoft.

Parish governance in our area

A key strand of the Council’s recently adopted Business Plan is ‘Enabling Communities’. The Council “firmly believe that local government can, and should, work more closely with communities, and the ‘champions’ within each community, who put their time and energy into making things better in their group or community.” The Council wants “to enable our communities to be more resilient. This means making it possible or easy for communities to do the things that they most want to do – rather than doing things ‘to’ or ‘for’ them.”

The Council are therefore “putting local communities firmly at the heart of all that we do and recognising that Town and Parish Councils and ward councillors have a vital role to play in representing, championing and supporting our communities.”

Successive governments have equally been clear about the importance and role of strong parish councils and that recommendations made through community governance reviews ought to bring about improved community engagement, better local democracy and result in more effective and convenient delivery of local services.

Who undertakes the Review?

The Council appointed a specific Working Group for this Review at the Full Council Meeting on 23 March 2016. This Working Group was created in line with the terms of reference and membership arrangements previously adopted for such reviews:

- Political proportionality, to include at least one Councillor from each political party, plus any relevant Ward Member(s) (up to a maximum Working Group membership of 7 Councillors).

Such a working group is not a committee of the Council and so has no delegated powers to make decisions, other than to steer the delivery of the Review, in accordance with these adopted Terms of Reference.

2. CONSULTATION

How the Council proposes to conduct consultation during the Review?

These Terms of Reference have been drawn up in consultation with a working group of the Council's Overview & Scrutiny Committee, the Committee itself and the Cabinet. The Terms of Reference have been published following approval by Full Council on 23 March 2016.

This document lays out the aims of the Review, the legislation that guides it and some of the policies that the Council considers important in the Review.

In coming to its recommendations in a Review, the Council will need to take account of the views of local people. The Act requires the Council to consult the local government electors for the area under review and any other person or body who appears to have an interest in the Review and to take the representations that are received into account by judging them against the criteria in the Local Government and Public Involvement in Health Act 2007. The Review will be conducted transparently so that local people and other local stakeholders who may have an interest are made aware of the outcome of the decisions taken on them and the reasons behind these decisions.

In accordance with the Act, representations received in connection with the Review will be taken into account, and steps will be taken to notify consultees of the outcome of the Review. This will be done in accordance with the Council's communications strategy for the Review.

As required the Council will also notify Suffolk County Council that the Review is being undertaken and provide a copy of the Terms of Reference. Suffolk County Council will also be a consultee of the Review.

How to contact us

Specific mechanism for contacting the Council during the consultation phases of the Review (see below) will be widely publicised at that time, in accordance with the communications strategy. Any other, more general questions, can also be forwarded at any time to LowestoftCGR@eastsoffolk.gov.uk

A timetable for the Review

Publication of this Terms of Reference document formally begins the Review. As required the Review will be completed within a maximum of twelve months. An indicative timetable for the Review is set out below, although the Council may determine to amend this timetable as appropriate during the Review in response to each stage:

Action	Timetable
Introductory stage – submissions are invited	April – May
Draft Proposals are prepared	June
Draft Proposals are published	July
Consultation on Draft Proposals	July – September
Final Proposals are prepared	October
Final Proposals are published & available for comment	November
Council publishes the Recommendations & makes a Re-organisation Order	December

3. ELECTORATE FORECASTS

The electorate and electorate forecasts for the district

The Council will use the Register of Electors of April 2016 in providing the existing ward electorate figures. These, together with a current population estimate, are presented in Annex B.

When the Council comes to consider the electoral arrangements of the parishes in its area, it is required to consider any change in the number or distribution of the electors which is likely to occur in the period of five years beginning with the day when the review starts. Electorate forecasts have been prepared by the Council using extant planning permissions and the Local Plan to project the five-year electorate forecast.

It is the government's guidance that these forecasts should be made available to all interested parties as early as possible in the Review process. These will therefore be produced as soon the Review commences and be made available before the draft Proposals are published in July 2016. This will include information regarding the demographic trends and influences on the area, such as new developments.

4. THE PRESENT STRUCTURE OF PARISHES AND THEIR ELECTORAL ARRANGEMENTS

Present structures of parish governance in our area

As highlighted this Review relates only to the current unparished areas of Lowestoft. For completeness however information is included at Annex C that shows the existing structures of parish governance in the rest of Waveney. This includes details of the parishes, parish wards, ward representation, overall representation, ratios of electors to councillors, rural/urban designation, and Waveney District Council's wards.

Previously unparished areas

The Council is required by law to consider other forms of community governance as alternatives or stages towards establishing parish councils. There may be other arrangements for community representation or community engagement in an area, including area committees, neighbourhood management programmes, tenant management organisations, area or community forums, residents' and tenant associations or community associations, which may be more appropriate to some areas than parish councils, or may provide stages building towards the creation of a parish council, which are already successfully creating opportunities for engagement, empowerment and co-ordination in local communities.

Details of such arrangements and their effectiveness as a means of community representation and / or community engagement will be sought as part of the introductory stage submissions. The Council will be mindful of such other forms of community governance in its consideration of whether parish governance is most appropriate in certain areas. However, the Council also notes that what sets parish councils apart from other kinds of governance is the fact that they are a democratically elected tier of local government with directly elected representatives, independent of other council tiers and budgets, and possessing specific powers for which they are democratically accountable.

5. PARISH AREAS

Introduction

This Review relates only to the current unparished areas of Lowestoft. The legislation requires that the Council must have regard to the need to secure that community governance within the area under review:

- reflects the identities and interests of the community in that area, and
- is effective and convenient, and
- takes into account any other arrangements for the purposes of community representation or community engagement in the area.

Parishes

The Council is anxious to ensure that electors should be able to identify clearly with the parish in which they are resident because it considers that this sense of identity and community lends strength and legitimacy to the parish structure, creates a common interest in parish affairs, encourages participation in elections to the parish council, leads to representative and accountable government, engenders visionary leadership and generates a strong, inclusive community with a sense of civic values, responsibility and pride.

The Council considers that parishes should reflect distinctive and recognisable communities of interest, with their own sense of identity; the feeling of local community and the wishes of local inhabitants are primary considerations in this Review.

The Council is anxious to balance carefully the considerations of changes that have happened over time, through population shifts or additional development for example, and that have led to a different community identity with historic traditions in its area. The Council also notes the Guidance that community cohesion should be taken into account in this Review.

The Council also notes the Government's strongly stated Guidance that it "expects to see a trend in the creation, rather than the abolition, of parishes" and that "the abolition of parishes should not be undertaken unless clearly justified". The Council also notes that the government also considers that, where existing parishes are abolished, "it would be undesirable to see the area becoming unparished with no community governance arrangements in place". In light of the strength of the Guidance the Council's preference and intention is for the whole of its area to be parished unless strong arguments are made for not doing so.

Charter trustees, such as the Lowestoft Charter Trustees, were established following the local government reorganisation in 1974 to preserve the historic identity of the former boroughs or cities. Most charter trustee areas therefore have relatively large populations. To this end, charter trustees have the power to carry out ceremonial functions. They were not intended to act as administrative units. The Council will follow the Guidance that proposals to create a parish or parish council covering all or part of a charter trustee area (which would replace the charter trustees) need to be judged in particular against the following considerations:

- the effect on the historic cohesiveness of the area;
- what are the other community interests in the area? Is there a demonstrable sense of community identity encompassing the charter trustee area? Are there smaller areas within it which have a demonstrable community identity and which would be viable as administrative units?

Boundaries

The Council considers that the boundaries between parishes will normally reflect the ‘no-man’s land’ between communities represented by areas of low population or pronounced physical barriers. These barriers will be either natural or man-made: they might include coastal features, rivers, marshland, moorland and mountain or man-made features such as parks, canals, railways, major road and motorways – those barriers that oblige the residents of an affected area to have little in common with the remainder of the parish to which they may have been allotted.

The Council considers that ‘natural’ settlements or settlements as they are defined in the Local Plan should not in normal circumstances be partitioned by parish boundaries. The Council will endeavour to select boundaries that are and are likely to remain easily identifiable.

The pattern of community representation and community engagement

In urban areas defining a community upon which a parish might be based can be more difficult. As stated in section 4 above, in some areas of Lowestoft there are local residents’ associations, community forums etc. that made a distinct contribution to the community. The Council will be mindful of existing representation in a voluntary organisation, community endeavour, or local forums for community representation and engagement which may dictate suitable areas on which to base proposals for the creation of parishes with democratically elected councils.

Viability

The Council is anxious to ensure that parishes should be viable and should possess a precept that enables them to actively and effectively promote the well being of their residents and to contribute to the real provision of services in their areas in an economic and efficient manner.

Some parishes are anxious to take on the power of well-being provided in the Local Government and Public Involvement in Health Act 2007; others hold Quality Parish status, while others are anxious to enter into charters with principal councils for the provision of local services. The Council sees these initiatives as important measures of effective and convenient local government and will respect them in this Review.

The Council is committed, in line with the relevant legislation, to ensuring that the Review leads to parishes that are based on areas which reflect community identity and interest; and which are viable as an administrative unit.

6. THE GROUPING OF PARISHES

Introduction

A grouping order is permitted under Section 11 of the Local Government Act 1972. It may best be considered as a working alliance of parishes that have come together under a common parish council, with the electors of each of the grouped parishes electing a designated number of councillors to the council. It has been found to be an effective way of ensuring parish government for small parishes that might otherwise be unviable as separate units, while otherwise guaranteeing their separate community identity. Details of such parish groupings are contained in Annex C. The Council does not anticipate however that groups of parishes will be relevant or appropriate in an urban area such as Lowestoft.

Alternative styles

The 2007 Act has introduced 'alternative styles' for parishes. If adopted, the 'alternative style' would replace the style "parish". However, only one of three prescribed styles can be adopted: "community", "neighbourhood" or "village". The implications of a change of style can be illustrated: The Community of Greenfield; Whitewell Neighbourhood Council, or the Village Councillors for the Village of Redstone. In addition, it would be noted that the style of "town" is still available to a parish. However, for as long as the parish has an 'alternative style', it will not also be able to have the status of a town and vice versa.

Where a new parish is being created, the Council will make recommendations as to the geographical name of the new parish and as to whether or not it would have one of the alternative styles.

Where an existing parish is under review, the Council will make recommendations as to whether the geographical name of the parish should be changed, but it will be for the parish council or parish meeting to resolve whether the parish should have one of the alternative styles.

7. ELECTORAL ARRANGEMENTS

What does 'Electoral Arrangements' mean?

An important part of our Review will comprise giving consideration to 'Electoral Arrangements'. The term covers the way in which a council is constituted for the parish. It covers:

- the ordinary year in which elections are held;
- the number of councillors to be elected to the council;
- the division (or not) of the parish into wards for the purpose of electing councillors;
- the number and boundaries of any such wards;
- the number of councillors to be elected for any such ward;
- the name of any such ward.

Ordinary year of election

The Local Government Act 1972 states that ordinary election of parish councillors shall take place in 1976, 1979, and every fourth year thereafter (ie 2007, 2011, 2015 etc). However, the government has indicated that it would want the parish electoral cycle to coincide with the cycle for the district/borough council, so that the costs of elections can be shared. If the Review finds that it will be appropriate to hold an election for parish councillors, for example to a newly formed parish, at an earlier date than the next scheduled ordinary elections, the terms of office of any newly elected parish councillors will be so reduced as to enable the electoral cycle to revert to the normal cycle in the district at the next ordinary elections. This would be in 2019.

A council for a parish

The legislation lays down the different duties that the Council has with regard to the creation of a council for a parish:

- Where the number of electors is 1,000 or more – a parish council must be created;
- Where the number of electors is 151-999 – a parish council may be created, with a parish meeting being the alternative form of parish governance;
- Where the number of electors is 150 or fewer – a parish council is not created.

What considerations cover the number of parish councillors?

The government has advised, and this Council concurs that "it is an important democratic principle that each person's vote should be of equal weight so far as possible, having regard to other legitimated competing factors, when it comes to the elections of councillors". Likewise, the Council notes that the number of parish councillors for each parish council shall not be less than five. There is no maximum number. There are no rules relating to the allocations of councillors. However, each parish grouped under a common parish council must have at least one parish councillor.

The Council has not determined a councillor allocation formula for parish councils in Waveney. Consideration will need be given however as part of the Review to appropriate allocations for any new parishes in Lowestoft and how this compares with the principle of equal weight per vote, as described above. Annex C contains details of the current parishes, both urban and rural, and number of elector per councillor in those parishes.

In considering this issue the National Association for Local Councils has suggested that the minimum number of councillors for any parish should be seven and the maximum 25. Similarly research in 1992 by the Aston Business School has found the following levels of representation.

<i>Electorate</i>	<i>Councillor Allocation</i>
Less than 500	5 – 8
501 – 2,500	6 – 12
2,501 – 10,000	9 – 16
10,001 – 20,000	13 – 27
Greater than 20,000	13 – 31

The Guidance is clear that “each area should be considered on its own merits, having regard to its population, geography and the pattern of communities”, and therefore the Council is prepared to pay particular attention to existing levels of representation, the broad pattern of existing council sizes which have stood the test of time and the take-up of seats at elections in its consideration of this matter.

The government has also previously stated “that the conduct of parish council business does not usually require a large body of councillors”. In determining the appropriate number of councillors consideration will therefore be given to any history of co-option for current parishes elsewhere in the district (i.e. where less people have stood for election than the number of ‘seats’ available in any parish) during the past two ordinary elections. Again this information is included within Annex C.

By law, the Council must have regard to the following factors when considering the number of councillors to be elected for the parish:

- the number of local government electors for the parish;
- any change in that number which is likely to occur in the period of five years beginning with the day when the review starts.

The Council will also have regard to the following considerations:

- to ensure that the allocation of councillors to parishes is as equitable as possible across the district, while acknowledging that local circumstances may occasionally merit variation;
- to appreciate that there are different demands and consequently different levels of representation are appropriate between the urban and the rural parishes in the district.

The Council recognises and accepts that it may also be appropriate to have exceptions to the above policies, which may include and where some weight will be given to the following considerations:

- a high precept and high levels of service provision;
- where representation may be required to meet the challenges of population scarcity;
- the traditional scale of representation in a particular parish;
- supporting a warding arrangement in a particular parish and achieving a good parity of representation between wards.

Parish warding

The Act requires that in considering whether a parish should be divided into wards for the purposes of elections of the parish council, the Council should consider the following:

- whether the number, or distribution, of the local government electors for the parish would make a single election of councillors impracticable or inconvenient;
- whether it is desirable that any area or areas of the parish should be separately represented on the council.

The Guidance states that “the warding of parishes in largely rural areas that are based predominately on a single centrally-located village may not be justified. Conversely, warding may be appropriate where the parish encompasses a number of villages with separate identities, a village with a large rural hinterland or where, on the edges of towns, there has been some urban overspill into the parish.”

With regard to urban parishes, the government has suggested that “there is likely to be stronger case for the warding of urban parishes.... In urban area community identity tends to focus on a locality, whether this be a housing estate, a shopping centre or community facilities. Each locality is likely to have its own sense of identity.”

The Council will be mindful of this guidance and will endeavour to ensure that such urban wards focus on localities of distinct identity; whilst recognising that “each case should be considered on its merits and on the basis of the information and evidence provided during the course of the review”.

The Council will therefore ensure that any warding arrangements will be clearly and readily understood by and have relevance for the electorate in a parish; they should reflect clear physical and social differences within a parish: one parish but comprising different parts. Mindful of parish resources the Council will also only consider warding where it determines that it would also be in the interests of effective and convenient local government.

The number and boundaries of parish wards

In reaching conclusions on the boundaries between parish wards, the Council will take into account community identity and interests in an area and will consider whether any particular ties or linkages might be broken by the drawing of particular ward boundaries. Equally, the Council, during its consultations in this Review is mindful that proposals which are intended to reflect community identity and local linkages should be justified in terms of sound and demonstrable evidence of those identities and linkages.

The Council has noted the desirability of fixing boundaries which are, and will remain, easily identifiable, as well as taking into account any local ties which might be broken by the fixing of any particular boundaries. Ward boundaries should be clearly understood; they should represent the most appropriate parting of local attachments within a parish that comprises different parts.

The Guidance has suggested that a relevant consideration for the Council when undertaking a Review is that the district wards should not split an unwarded parish and that no parish ward should be split by such a boundary. The relevant legal provisions do not apply to reviews of parish electoral arrangements, but the Local Government Boundary Commission for England has requested the Council to bear this in mind, which the Council will do.

The number of councillors to be elected for parish wards

The Council has noted that it is required to have regard to the following when considering the size and boundaries of the wards and the number of councillors to be elected for each ward:

- the number of local government electors for the parish;
- any change in the number, or distribution, of the local government electors which is likely to occur in the period of five years beginning with the day when the review starts.

The government has advised, and this Council concurs that “it is an important democratic principle that each person’s vote should be of equal weight so far as possible, having regard to other legitimated competing factors, when it comes to the elections of councillors.”

The Council is likewise anxious to avoid the risk that, where one or more wards of a parish are over-represented by councillors, the residents of those wards (and their councillors) could be perceived as having more influence than others on the council. During the Review process and in its consultations, the Council is committed to consistently showing the ratios of electors to councillors that would result from its proposals.

The foregoing considerations of being equitable will also guide the Council when it considers the number of councillors to be elected to a common council by each parish within a grouping arrangement.

Naming of parish wards

With regard to the names of parish wards, the Council will endeavour to reflect existing local or historic place-names, and will give a strong presumption in favour of ward names proposed by local interested parties.

8. REORGANISATION OF COMMUNITY GOVERNANCE ORDERS AND COMMENCEMENT

The Review will be completed when the Council adopts the Reorganisation of Community Governance Order. Copies of this Order, the map(s) that show the effects of the order in detail, and the document(s) which set out the reasons for the decisions that the Council has taken (including where it has decided to make no change, following a Review) will be deposited at the Council's offices, website, libraries, contact points.

In accordance with the Guidance, the Council will issue maps to illustrate each recommendation at a scale that will not normally be smaller than 1:10,000. These maps will be deposited with the Secretary of State at the Department of Communities and Local Government and at the Council's office at Riverside, Lowestoft. Prints will also be supplied, in accordance with regulations, to the Secretary of State, the Electoral Commission, the Local Government Boundary Commission for England, the Office of National Statistics, the Director General of the Ordnance Survey, and any other principal council whose area the order relates to. Copies may also be sent to the Audit Commission, the Registrar General, the Land Registry, and the Valuation Office Agency.

An indication of when the provisions of the Order would take effect should be given. For financial and administrative purposes this will be on 1 April in the designated year. The electoral arrangements for a new existing parish council will come into force at the next elections to the parish council. These might be the next ordinary local elections. However, where the next ordinary elections are not for some time, the Council might resolve to modify or exclude the application of sections 16(3) and 90 of the Local Government Act 1972 to provide for the first election to be held in an earlier year, with councillors serving a shortened first term to allow the parish electoral cycle to return to that of the district.

9. CONSEQUENTIAL MATTERS

General principles

The Council notes that a Reorganisation Order may cover any consequential matters that appear to the Council to be necessary or proper to give effect to the Order. These may include:

- the transfer and management or custody of property;
- the setting of precepts for new parishes;
- provision with respect to the transfer of any functions, property, rights and liabilities;
- provision for the transfer of staff, compensation for loss of office, pensions and other staffing matters.

In these matters, the Council will be guided by Regulations that have been issued following the 2007 Act. In particular, the Council notes that the Regulations regarding the transfer of property, rights and liabilities require that any apportionments shall use the population of the area as estimated by the Proper Officer of the Council as an appropriate proportion.

Furthermore, the Council notes the Regulations regarding the establishment of a precept for a new parish and their requirements.

District Ward boundaries

The Council is mindful that it may be necessary for it to recommend the Local Government Boundary Commission for England to make alterations to the boundaries of District wards or County electoral divisions to reflect the changes made at parish level. The Council notes that it will be for the Local Government Boundary Commission for England to decide if related alterations should be made and when they should be implemented, and that the Commission may find it appropriate to conduct an electoral review of affected areas.

The Council notes that the Commission will require evidence that the Council has consulted on any such recommendations for alterations to the boundaries of District wards or County electoral divisions as part of the Review. Of course, such recommendations for alterations may only become apparent during the course of the Review. Even so, the Council will endeavour to include any such draft recommendations for alterations at the earliest possible opportunity for consultation that will arise after they come apparent.

Where any such consequential matters affect Suffolk County Council, the Council will also seek the views of that council with regard to alterations to electoral division boundaries in accordance with the Guidance.

10. DATE OF PUBLICATION OF THESE TERMS OF REFERENCE

Waveney District Council approved these Terms of Reference at its Full Council meeting on 23 March 2016. These Terms of Reference are therefore treated as having been published on 24 March 2016.