

## **South Somerset District Council**

### **LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH ACT 2007 COMMUNITY GOVERNANCE REVIEW**

#### **TERMS OF REFERENCE**

##### **South Cadbury Parish Council**

#### **INTRODUCTION**

- **Setting the Context**

The Local Government and Public Involvement in Health Act 2007 provides for a principal council to conduct a community governance review at any time. The Council can undertake a review of the whole or part of its area. The Council is also under a duty to carry out a community governance review if it receives a valid community governance petition for the whole or part of the council's area or, a request from the Parish Council. However, the duty to conduct a review does not apply if:

- a) the principal council has concluded a community governance review within the last two years which in its opinion covered the whole or a significant part of the area of the petition; or
- b) the council is currently conducting a review of the whole, or a significant part of the area to which the petition relates.

In this case the District Council has been requested to undertake a review to increase the number of Parish Councillors from 5 to 7 on South Cadbury Parish Council, following the receipt of a letter from the Parish Council.

These terms of reference relate to the area comprising the existing South Cadbury Parish Council boundaries as detailed on the attached map.

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 issues 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 Electoral Commission in April 2008, 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 (SI 2008/626). Section 81 of the Local Government and Public Involvement in Health Act 2007 requires the Council to publish its Terms of Reference in a review.

These Terms of Reference will be published by placing a copy on public deposit at the offices of South Somerset District Council at the Council Offices, Brympton Way, Yeovil BA20 2HT and on the Council's website at [www.southsomerset.gov.uk](http://www.southsomerset.gov.uk)

The matters on which the Community Governance Review is to focus are set out later in these Terms of Reference.

- **Why is the Council undertaking the review?**

The Review is being carried out in response to a written request from the Parish Council. The request seeks to increase the number of Parish Councillors from 5 to 7.

- **What is a Community Governance Review?**

A Community Governance Review is a review of the whole part or part of the district area to consider one or more of the following:

1. Creating, merging, altering or abolishing parishes;
2. The naming of parishes and the style of new parishes;
3. The electoral arrangements for parishes (the ordinary year of election; council size; the number of councillors to be elected to the council, and parish wardings) and
4. Grouping parishes under a common parish council or de-grouping parishes.

- **Who undertakes the review?**

The Council have approved the terms of reference for this review and will deal with all matters in connection with it through the relevant Ward Members and the Area East Committee which will make final recommendations to full Council following the review for their consideration and making of any necessary Reorganisation Order.

The lead officer with regard to this review is Angela Cox, Democratic Services Manager.

## **CONSULTATION**

- **How the Council proposes to conduct consultations during the review?**

The Council has drawn up and now publishes this Terms of Reference document. 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 the 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 Council intends to consult with all households and interested parties in the area, inviting initial submissions and seeking views on the draft proposals.

The Council will also identify any other person or body who it feels may have an interest in the review and write to them inviting them to submit their views at both stages of consultation.

This will include

- Ward Members
- Tenants and Residents' Associations
- Groups and Societies
- Schools and Colleges
- Members of Parliament
- Somerset Association of Local Councils
- Local Political Parties
- The Police

The Council will also be pleased to receive comments from any other person or body that wishes to make representations; any such person that makes representations during the initial invitation to submit proposals will be invited to make comments in respect of the draft proposals.

As required by Section 79(3) of the Local Government and Public Involvement in Health Act 2007, the District Council will notify Somerset County Council that a review is to be undertaken, provide them with a copy of the terms of reference for the review and will consult them on the matters under review.

The Council intends to clearly publish all decisions taken in the review and the reasons for taking those decisions and will work towards the Government's view in undertaking the review that "Community Governance Reviews should be conducted transparently so that local people and other 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 by publishing them on the Council's website at [www.southsomerset.gov.uk](http://www.southsomerset.gov.uk), through general press releases, public notice adverts in local newspapers, placing key documents on public deposit at Council Offices and will communicate the final outcome of the review by writing to all households in the area concerned by the review.

- **How to contact us:**

Any queries regarding this review should be directed to:

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Yeovil  
BA20 2HT

E-Mail: [angela.cox@southsomerset.gov.uk](mailto:angela.cox@southsomerset.gov.uk)

- **A timetable for the Review**

### **Timetable for the Review**

Publication of these Terms of Reference formally begins the review, which must be completed within twelve months.

The table below details indicative timescales for the review.

<b>Action</b>	<b>Timetable</b>	<b>Dates</b>
Compiling Terms of Reference		June / July 2011
Report to Council to approve terms of reference		21 July 2011
Publication of Terms of Reference		29 July 2011
Introductory Stage – Invite initial submissions	2 months	August/September 2011
Preparation of Draft Proposals and approval by Council	1 month	September 2011
Publication of Draft Proposals		October 2011 (following approval by Council)
Consultation on Draft Proposals	2 months	December 2011
Preparation of Recommendation Reorganisation Order and approval by Council.	1 month	January 2012
Publication of Recommendations		January 2012
Publication of any Reorganisation Order		February 2012
Effective date of Order		1 April 2012
Town/Parish Council Elections		May 2012

### **ELECTORATE FORECASTS**

- **The electorate forecasts for the district**

The Council has used the Register of Electors as at 1 June 2011 in providing the existing parish electorate figures.

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. There are no large anticipated increases in the number of electors in the parish over the next 5 years.

- **Demographic trends and influences in our area**

Although the Parish Council have indicated that there are no large scale developments anticipated in the parish, there will inevitably be ad-hoc building which will increase the number of electors requiring representation.

## **THE PRESENT STRUCTURE OF THE PARISH AND THE ELECTORAL ARRANGEMENTS**

Present structure of the parish is:

<b>South Cadbury</b>		<b>Ratio of Electors to Cllrs</b>
<b>Existing No. of Parish Councillors</b>	<b>5</b>	<b>1:50</b>
<b>Proposed No. of Parish Councillors</b>	<b>7</b>	<b>1:36</b>

Guidance in connection with the Local Government and Public Involvement in Health Act requires the consent of the Electoral Commission to be obtained if the Council may wish to alter the electorate arrangements for a parish whose existing arrangements were put in place within the previous five years by an order made either by the Secretary of State or the Electoral Commission. No such consent will be required following this review.

- **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 tenants' 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.

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.

## **PARISH AREAS**

- **Introduction**

The legislation requires that the Council must have regard to the need to secure that community governance with the area under review:

1. Reflects the identities and interests of the community in that area, and
2. Is effective and convenient, and
3. 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 identify 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.

There is no request in this review to alter the existing parish boundaries, which remain easily identifiable.

- **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 new 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.

## **NAMES AND STYLES**

- **The naming of parishes**

The 'name' of a parish refers to the geographical name of the area concerned, whereas its status or 'style' allows for that area to be known as a town, community, neighbourhood or village, rather than as a parish. The status or style of the parish will be reflected in the name of any council of the parish. So, for example, the council of a parish, which has the style "town" will be known as the 'town council' and its councillors as the 'town councillors', etc.

There are legal requirements (as defined in Section 76 of the Local Government Act 1972), particularly with regard to subsequent notification, with regard to the naming of parishes, however, there is no proposal within this review to alter the name of the existing Parish Council.

- **Alternative styles**

The Local Government and Public Involvement Act 2007 has introduced 'alternative styles' for parishes. If adopted, the 'alternative style' would replace the style "parish". However, only one of these three prescribed styles can be adopted:-

"community", neighbourhood" or "village".

A parish shall cease to have an alternative style if the parish begins to have the status of a town.

Where new parishes are created, the Council will make recommendations as to the geographical names of the new parishes and as to whether or not it should have one of the alternative styles.

## **ELECTORAL ARRANGEMENTS**

- **What does "Electoral Arrangements" mean?**

An important part of the Council's 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 (i.e. 2007, 2011, 2015 etc.) 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.

However, where the next ordinary elections are not for some time, the Council may 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.

- **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 election of councillors”. Likewise, the Council notes that the number of parish councillors for each parish council shall be not less than five. There is no maximum number. The Aston Business School found the following levels of representation –

<b>Electorate</b>	<b>Councillor Allocation</b>
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 National Association of Local Councils (NALC) suggested that the minimum number of councillors should be seven and the maximum 25.

The government’s guidance is that “each area should be considered on its own merits, having regard to its population, geography and pattern of communities”. This Council is prepared to pay particular attention to its 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 the matter.

It is recognised that the conduct of parish council business does not usually require a large body of councillors. By law, the Council in this review 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 take into account the following considerations:

- To ensure that the allocation of councillors to parishes is equitable 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 urban and more rural parishes in the district.

The Council also acknowledges that there may be exceptions to the above, where some weight will be given to the following considerations in forming the proposals;

- A high precept and high levels of service provision;
- Where representation may be required to meet the challenges of population sparsity;



- 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 for the parish council the Council should consider the following:

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

The government's guidance is that "the warding of parishes in largely rural areas that are based predominantly 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, "there is likely to be a 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 identify".

The Council will be mindful of this guidance, noting further that, "each case should be considered on its merits and on the basis of the information and evidence provided during the course of this review."

The Council also wishes to emphasise that warding arrangements should be clearly and readily understood by and should 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. Furthermore, ward elections should have merit; not only should they meet the two tests laid down in the Act, but they should also be in the interests of effective and convenient local government. They should not be wasteful of a parish's resources.

- **The number and boundaries of parish wards**

In reaching conclusions on the boundaries between parish wards, the Council will take into account community identify 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 identify 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. The Council also emphasises that ward boundaries should be clearly understood; they should represent the most appropriate

parting of local attachments within a parish that comprises different parts. The Electoral Commission has suggested that the district wards should not split an un-warded 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 Commission 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 this 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 factors, when it comes to the elections of councillors.” While there is no provision in legislation that each town/parish councillor should represent, as nearly as may be, the same number of electors, the Council considers that it is not in the interests of effective and convenient local government, either for voters or councillors, to have significant differences in levels of representation between different parish wards.

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.

- **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,

## **REORGANISATION OF COMMUNITY GOVERNANCE ORDERS AND COMMENCEMENT**

The review will be completed when the Council adopts the reorganisation of Community Governance Orders. Copies of this order, the map(s) that show the effects of that order in detail, and the documents(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 and on its website.

In accordance with the Guidance issued by the government, 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 Offices at Brympton Way, Yeovil BA20 2HT.

Prints will also be supplied, in accordance with the regulations, to Ordnance Survey, the Registrar General, the Land Registry, the Valuation Office Agency, the Boundary Commission for England and the Electoral Commission.

The provisions of the Order would take effect, for financial and administrative purposes, from 1<sup>st</sup> April in the designated year.

New or revised parish electoral arrangements come into force at ordinary parish elections, rather than parish by-elections, so they usually have to wait until the next scheduled parish elections, namely May 2015. They can come into force sooner, which will have the effect of cutting the term of the existing councillors. In addition the term of the new councillors will also be shortened to ensure that the parish election cycle continues to correspond with that of the District Council (and other parish councils) so as to ensure that election costs continue to be shared.

## **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 that the regulations regarding the establishment of a precept for a new parish require the Council to calculate the first anticipated precept for a newly constituted parish council and for the amount of that precept to be included in the Reorganisation Order.

- **District ward boundaries**

The Council is mindful that it may be necessary, although it is not anticipated, for it to recommend the Electoral Commission 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 Electoral Commission to decide if related alterations should be made and when they should be implemented, and that the Commission may find it appropriate to direct the Boundary Committee for England to conduct an electoral review of affected areas.

The Council notes that the Electoral Commission will require evidence that the Council has consulted on any such recommendations for the alterations to the boundaries of district wards to 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 become apparent.

Where any such consequential matters affect Somerset County Council, the Council will also seek the views of that council with regard to alterations to electoral division boundaries in accordance with the government's guidance.

#### **DATE OF PUBLICATION OF THESE TERMS OF REFERENCE**

Date of Publication: 15 July 2011

Any modifications (if any) will be published as soon as practicable after they have been made