

# Statement of the Process for Creating New Parish Councils in Birmingham, May 2021

## 1. Purpose

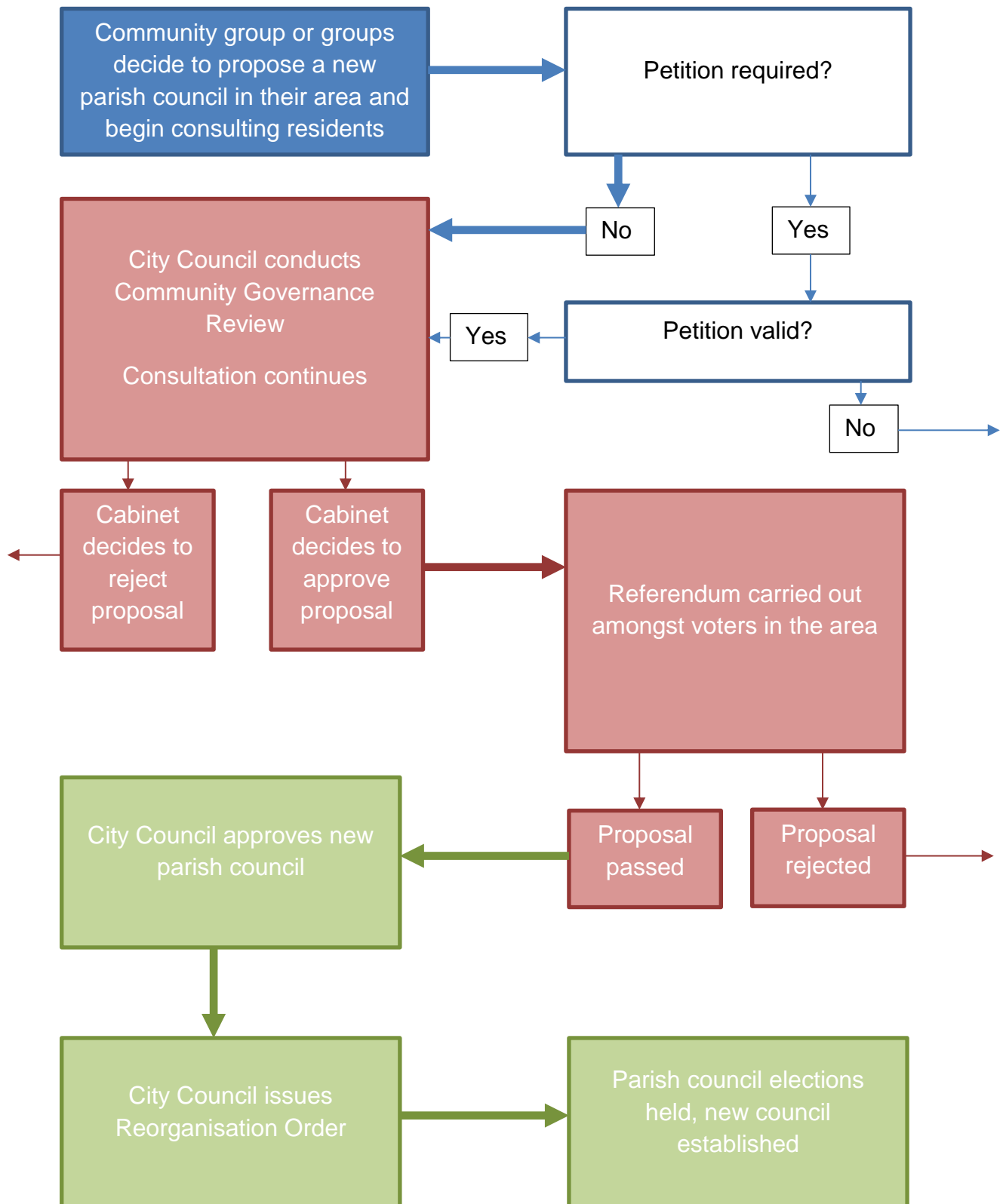
- 1.1 This paper provides a summary of the process the City Council will follow in responding to communities that wish to create a parish (neighbourhood) council, providing more detail to the policy in the Working Together in Birmingham's Neighbourhoods white paper (published in February 2019 – see Appendix 2).

## 2. Summary of proposed process

- 2.1 The diagram overleaf summarises the process. It consists of three main stages as follows

- **Initiation** – a community group or groups expresses interest in having a parish council in the area and engages with the City Council. In some cases, a formal petition will be required, but the presumption will be that it will not.
- **Review** – a Community Governance Review is undertaken by the City Council, making use of community led consultation and considering a range of issues set out in statutory guidance. A report is produced with recommendations. If the recommendation is to have a new parish council then an indicative postal ballot of all electors in the area will be conducted.
- **Implementation** – if a new parish council is to be created, the City Council issues a Reorganisation Order and organises elections and the raising of a precept.

## Summary of process for creating a new parish (neighbourhood) council



### **3. City Council policy**

#### **Starting the process**

- 3.1. The white paper says that the City Council will initiate a Community Governance Review (CGR) without a petition if there is “strong enough support” in the local area. This means any of:
- Evidence from community led consultation that there is widespread support for the idea, subject to the consultation being of an adequate standard and communications about the proposal being accurate
  - Support expressed at more than one meeting of a Ward Forum with a reasonable attendance (an attendance which is average or above for the Ward)
  - Support from one or more community organisations which are well established and constituted to have properly recorded meetings which are open to all residents in the relevant area within the proposed parish boundary and which have held meetings to discuss the issue (evidenced in minutes).
- 3.2. If the City Council deems that there is insufficient evidence for widespread community interest in the proposal, then it will require a petition to be submitted that reaches the thresholds set out in guidance. This will not apply where a neighbourhood is developing or already has a Neighbourhood Plan that has been “made” (which would exempt it from having to produce a petition under national guidance).
- 3.3. Decisions on whether to require a petition will be taken by the relevant Cabinet Member, following advice from the relevant director (see “Governance and administrative arrangements” below).
- 3.4. Decisions on initiating a CGR and the validity of any petitions will be taken by Cabinet.
- 3.5. Community groups pursuing the creation of a new parish council will be allocated a contact officer who will help with:
- Provision of basic information to the community: map of proposed boundary, estimate of households and potential precept
  - Discussion of options for how a parish council would operate and what it could do (using the prospectus on devolution deals currently in development)

## **The Community Governance Review**

- 3.6. Once a decision has been taken to initiate a CGR, the City Council will publish a Terms of Reference for the review as described in statutory guidance (see Appendix 1) and inform key local stakeholders directly.
- 3.7. The City Council will endeavour to complete the CGR within six months from the decision to carry it out.
- 3.8. A CGR will cover the matters set out in national guidance (see Appendix 1) and a report will be published setting out findings, consultation feedback and recommendations. These will include whether to approve the establishment of parish council, any alternatives considered, the proposed approach to elections and any changes to the boundaries originally proposed.
- 3.9. Cabinet will receive the report of the CGR and, if it is proposed to establish a new parish council, it will decide that an indicative ballot will be held in the area as soon as possible and approve the expenditure on holding the ballot.
- 3.10. Cabinet will receive a report of the results of the ballot and, if the ballot indicates support for the proposal, will then forward a recommendation to that effect to a meeting of the full City Council.

## **Consultation and communications**

- 3.11. The CGR will make use of feedback obtained by community groups through consultation and engagement with the community and will not seek to replicate such consultation. The City Council will expect such consultation to meet a reasonable standard of inclusivity and representativeness and will require that information given to residents by the proponents of the proposal, by whatever means should be accurate and appropriate.
- 3.12. A communications plan for the CGR will be developed with the community groups that made the proposal and this will set out how the City Council will support efforts to communicate with residents.
- 3.13. However, the City Council will also engage with key stakeholders in the area and surrounding areas, such as community organisations, schools, key businesses and public service outlets, as suggested by government guidance and will assess the adequacy of community led consultation, to ensure that there has been inclusive and broad engagement with the community. A list of key stakeholders is required to be included in Ward Plans and this will be used for this purpose.

## **Referendum (indicative ballot)**

- 3.14. There is no legal requirement to conduct a referendum on the establishment of a parish council, however the City Council has committed to holding such a vote, as in Sutton Coldfield to ensure that there is adequate support for the proposal across the local community.
- 3.15. An indicative ballot will be held by post and if possible on-line and counted by an external organisation commissioned for this purpose. This exercise will be paid for by the City Council.
- 3.16. A simple majority of those participating in the indicative ballot will be sufficient to determine whether the proposal should be adopted or not. However, a ballot that fails to achieve a threshold of turnout will be deemed invalid, regardless of the result. This threshold shall be 25% or the turnout (or average turnout) in the last local election in the ward (or wards) in which the proposed parish council sits, whichever is the lowest.

## **Implementation**

- 3.17. The resolution of the full City Council meeting will include delegation of authority to carry out the necessary steps to implement it, including the issuing and publication of the Reorganisation Order and related communications, to the relevant Chief Officer (probably the Monitoring Officer), acting in consultation with the relevant Cabinet Member.
- 3.18. The Reorganisation Order will set out the matters prescribed by statutory guidance, including the timescale for implementation and arrangements for elections. This will normally specify that it will come into effect the following April, with elections the following May.
- 3.19. Parish council elections will normally take place on the same day as the City Council elections and will be administered by the City Council. The City Council will make a charge of 25% of additional costs to the parish council. In the case of the first elections not coinciding with the four-yearly cycle of City Council elections the whole of the cost of the election will be recharged to the parish council once established and drawing income from a local precept. Subsequent elections will take place on the same cycle as the City Council elections (i.e. the first term of office of parish councillors will not necessarily be 4 years).
- 3.20. The City Council will also assist with early administrative activities, such as appointment of a Clerk and will set up the process of levying the parish precept, through the city-wide Council Tax system.

## **Governance and administrative arrangements**

- 3.21. Cabinet will take decisions on recognising petitions and initiating CGRs and then make a recommendation to full council on the conclusions of a CGR. Full City Council will give final approval to the creation of a parish council and delegate authority to the appropriate Chief Officer (probably the Monitoring Officer), acting in consultation with the relevant Cabinet Member to take steps to implement the decision.
- 3.22. Cabinet and the Cabinet Member will act under advice from the Assistant Director Neighbourhoods and the Assistant Director Governance, Legal and Financial Services who is also the Deputy Monitoring Officer (or appropriate new roles in any future administrative structure). The Assistant Director Governance will lead on the implementation phase, including the issuing of the Reorganisation Order, under delegated authority from full City Council and the implementation of election arrangements.
- 3.23. A cross-directorate officer working group will oversee the process and make recommendations for any changes in this policy. Each neighbourhood that embarks on the process will have a contact officer who will be a member of the working group. The working group will be chaired by the Assistant Director Neighbourhoods.

## **Appendix 1: The legal and national framework**

### **Starting the process**

Following the Local Government and Public Involvement in Health Act, 2007, communities can initiate the process of creating a parish council through a petition to the principal authority. The local authority then validates the signatures and if the threshold set out in statutory guidance has been passed it must initiate a Community Governance Review. The City Council accepts online petitions created in external websites that have validation routines (e.g. email confirmation and postcode recording).

If a neighbourhood has a “made” Neighbourhood Development Plan in a referendum, then it does not need to submit a petition to trigger a review.

A local authority can also initiate a CGR for all or part of its area (and is encouraged to keep these under review every 10-15 years).

### **Community Governance Review**

Guidance on CGRs was published in 2010<sup>1</sup>.

The Act requires principal authorities to take account of certain criteria when conducting a review, namely:

- The identities and interests of the community in an area; and
- The effective and convenient governance of the area.

They are also advised to consider factors such as:

- What impact proposed community governance arrangements might have on community cohesion; and
- Whether the size (area), population and boundaries proposed for local governance make sense on the ground and contribute to the above criteria.

The guidance refers to people's sense of place and their historic attachment to areas. Overall, local council arrangements should lead to: improved local democracy; greater community engagement; and better local service delivery.

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/8312/1527635.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/8312/1527635.pdf)

The local authority must take into account the existing community governance of the area, such as residents associations, neighbourhood forums and other bodies and how they will relate to a parish council.

### ***The main steps in a Community Governance Review***

Trigger for a review	<ul style="list-style-type: none"> <li>• A valid community petition; or</li> <li>• A principal authority's own decision</li> </ul>
Decision to hold a review	<ul style="list-style-type: none"> <li>• A principal authority takes a formal decision;</li> <li>• Which can be to review all or a part of its area;</li> <li>• Though it must have valid grounds for refusal if there has been a petition</li> </ul>
Terms of Reference	<ul style="list-style-type: none"> <li>• A principal authority must draw up and publish terms;</li> <li>• Stating the matters and the geographic area to be covered;</li> <li>• Notifying other local authorities which have an interest.</li> </ul>
Undertaking a Review	<ul style="list-style-type: none"> <li>• A principal authority must consult electors in affected area(s);</li> <li>• It should consult other bodies with an interest, including any affected local councils;</li> <li>• It must then consider any representations received.</li> </ul>
Reaching conclusions	<ul style="list-style-type: none"> <li>• Bearing in mind representations, the criteria and other factors;</li> <li>• Including alternative forms of governance in the area e.g. resident's associations, neighbourhood forums;</li> <li>• The principal authority formally recommends an outcome from the review;</li> <li>• It must publish its recommendations and the reasons for them, informing those with an interest.</li> </ul>

### **Consultation**

The guidance above requires the local authority to consult the electorate and other local stakeholders. It advises that:



- *Principal councils will need to consult local people and take account of any representations received in connection with the review. When undertaking the review, they must have regard to the need to secure that community governance reflects the identities and interests of the community in the area under review, and the need to secure that community governance in that area is effective and convenient.*
- *Under the 2007 Act principal councils are required to consult both those local government electors in the area under review, and others (including a local authority such as a county council) which appears to the principal council to have an interest in the review...Other bodies might include local businesses, local public and voluntary organisations - such as schools or health bodies.*

## **Implementation**

A principal authority makes a Reorganisation Order to put into effect any changes, which must include a detailed map of the boundaries. It publishes the Order and map for public inspection. It must inform specified bodies e.g. Ordnance Survey. It should include in the Order any agreed incidental issues e.g. the transfer of assets.

An Order is often written to come into force the following April. Typically, a new local council is then elected in May. A Model Order (template) is [available](#).

There is no longer a requirement to seek approval from the Secretary of State for such changes to governance, however the Secretary of State must be informed along with other stakeholders.

**Election costs:** Parish councils normally have four-yearly elections. If an election is held separately from the principal council elections, then the whole cost is typically re-charged by the principal council to the parish council (paid out of the precept). Even when elections are aligned, it is common practice for councils to re-charge 25%, a third or even up to 50% of costs. In such elections the term of office would normally be reduced so that the next election would align.

## Appendix 2: Commitments in Working Together white paper

The white paper makes the following commitments to areas interested in establishing a parish council:

- To conduct a CGR without a petition if adequate expression of support is given:  
*“The city council can also start a review without a petition and will do so if we think there is strong enough support for the idea in the local area. This could be indicated, for example, by the views of local community organisations or a vote of residents at a well-attended Ward Forum.”*
- To conduct any Community Governance Reviews within six months, instead of the 12 months required in the guidance.
- To conduct a referendum or indicative ballot in each area to indicate broad public support, with a threshold for turnout:  
*“A consultative ballot will be held to enable every elector in the proposed area to say whether they support the proposal for a new parish council. The Green Paper asked for views on whether there should be a ballot threshold for support and turnout. There was no consensus in the responses on the level of thresholds, however we will set a threshold for turnout to ensure the ballot is reasonably representative of the area. A simple majority of those that vote will be sufficient to decide the issue.”*
- A presumption in favour of creating a parish council where a neighbourhood forum with a made Neighbourhood Plan has expressed support.
- A communications plan will be created for each parishing proposal, working with the community.