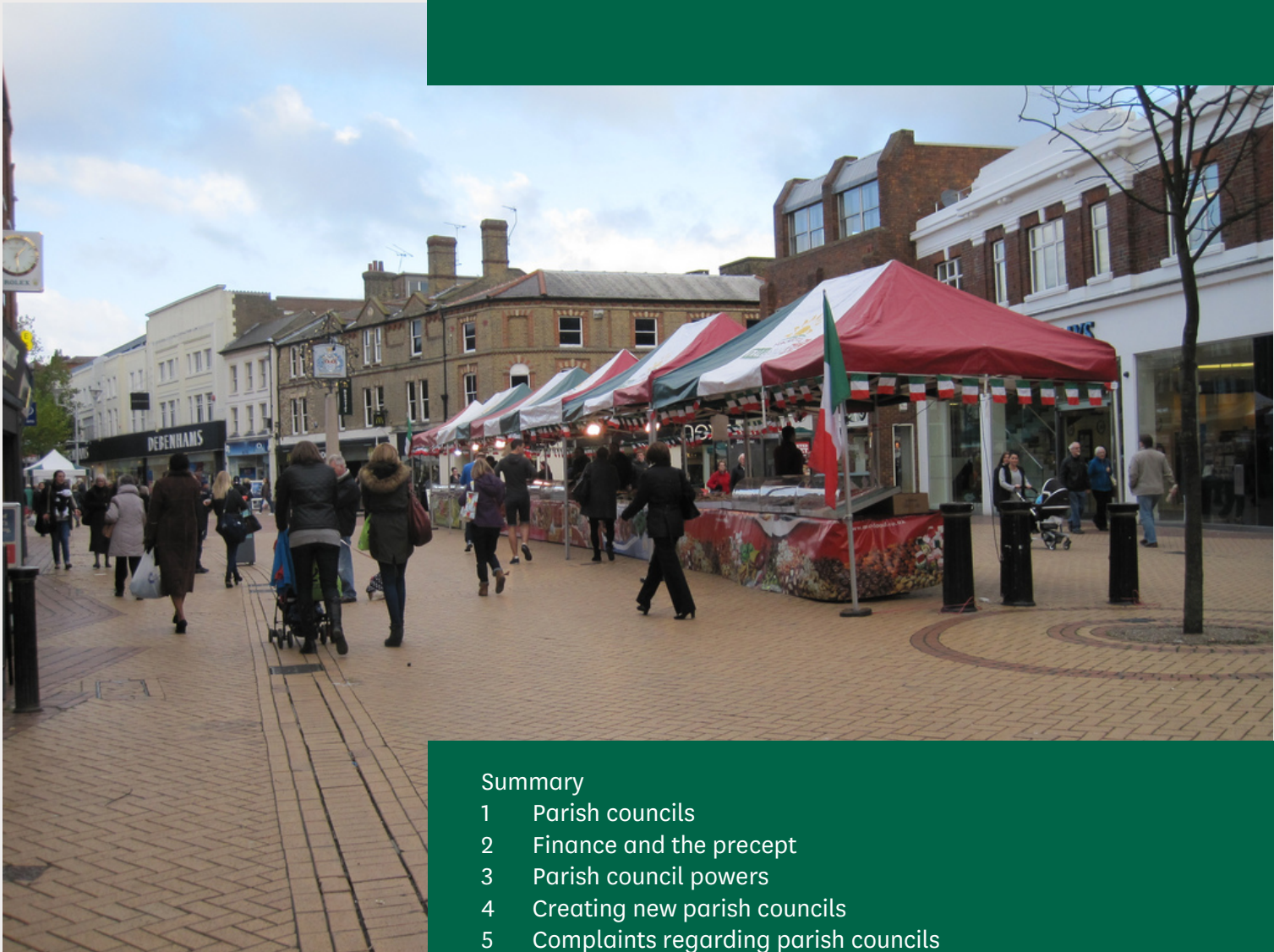


By Mark Sandford

15 September 2021

Parish and town councils: recent issues



Summary

- 1 Parish councils
- 2 Finance and the precept
- 3 Parish council powers
- 4 Creating new parish councils
- 5 Complaints regarding parish councils
- 6 Parish and town councils: recent policy changes

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Summary

This note addresses a range of recent issues affecting parish and town councils. It includes an explanation of what they are and their place in the local government structure; the powers they can exercise; how they may be established and abolished; and how complaints about them may be pursued. It also includes details of some policy issues that have arisen in relation to parish and town councils in the 2010s and early 2020s.

This note applies principally to England. In Scotland and Wales, community councils (the equivalent of parish and town councils) are a devolved matter. No equivalent to parish and town councils exists in Northern Ireland.

1 Parish councils

1.1 What are parish and town councils?

Parish and town councils are the tier of local government that is closest to the electorate in England. Collectively, they are often referred to as ‘local councils’. County, district and unitary authorities, by contrast, are often referred to in legislation and guidance as ‘principal authorities’. Parish and town councils are represented by the [National Association of Local Councils](#) (NALC), and by county-based associations.

Parish councils may resolve to call themselves ‘town’,¹ or ‘community’, ‘neighbourhood’, or ‘village’ councils.² A number of parish councils for areas which have been granted city status by Royal Charter are known as ‘city councils’ (e.g. Salisbury, Truro, Ripon). This is known as the ‘style’ of a council. It has no effect on the status or legal powers available to the council. The chairman of a town council may style him- or herself Mayor.

Elected parish and town councils were first established by the [Local Government Act 1894](#). This Act removed all non-ecclesiastical functions from church parish councils and passed them to newly-established local elected bodies, which became known as ‘parish councils’.³ The local church bodies are now known as ‘parochial church councils’ and are not linked in any way to parish and town councils.

The [Local Government Act 1972](#) entirely restructured local government within England and Wales, and it provides the legal foundation for the existence of today’s parish and town councils. Large parts of the 1972 Act have now been superseded with regard to principal authorities, but it still governs much of the workings of parish and town councils.

¹ See [Local Government Act 1972](#), section 245 (6).

² See [Local Government Act 1972](#), sections 12A and 17A, inserted by the [Local Government and Public Involvement in Health Act 2007](#).

³ See K P Poole and Bryan Keith-Lucas, *Parish Government 1894-1994*, NALC, 1994, pp31-37.

1.2

Where do parish and town councils exist?

There are some 10,000 parish councils in England,⁴ some 730 community and town councils in Wales, and some 1,200 active community councils in Scotland.⁵

It is common for elections to parish councils to be uncontested, and for members to be co-opted where the number of candidates is fewer than the number of seats available. Party political affiliations are rare amongst most parish councillors, though party groups do exist on many of the larger town councils.

Parish councils cover only some 40% of the population of England: historically they have been far less common in urban areas.⁶ 83 district or unitary councils have no parish councils in their areas. Many of these localities have never had parish councils (or ecclesiastical parishes). Until 2007, Inner London (the area of the former London County Council) had never had parish councils, and parish councils were not permitted in Greater London between 1935 and 2007.

1.3

Charter trustees

Charter trustees are established under section 246 of the [Local Government Act 1972](#). They are established in towns and cities which have a Royal Charter but which have lost their status as local government entities in previous local government reorganisations. Their members are the elected councillors for the area that they cover, and they manage small budgets.

Across England, sixteen charter trustees exist as of May 2021. Charter trustees have most recently been created for Bournemouth, Poole and Taunton following local government restructuring in the late 2010s. When a new parish or town council is established for an area with charter trustees, the new body takes on their role and the charter trustees are discontinued. The most recent example of this was in Bexhill in 2021. As part of the plans for unitary local government in Somerset, proposals exist [to create a new town council for Taunton](#) from May 2023 and thus abolish its charter trustees.

⁴ See NALC, [About Local Councils](#). MHCLG's 2021-22 table of council tax receipts lists 10,221 parish councils.

⁵ See Scottish Government, [Community Empowerment](#).

⁶ See NALC, [About Local Councils](#)

1.4 Differences between parish councils and principal authorities

A number of provisions familiar from English local government legislation covering principal authorities do not cover, or apply differently to, parish and town councils:

- The legislation regarding executive arrangements (mayors / cabinets) and overview and scrutiny in the [Localism Act 2011](#), originally introduced in the [Local Government Act 2000](#), does not apply to parish councils;
- The requirements for committees to be politically balanced, in the [Local Government and Housing Act 1989](#), do not apply to parish councils;
- English parish and town councils are not covered by the Local Government Ombudsman;
- Limited requirements for audit exist for councils with an income and expenditure of under £6.5 million (a limit which applies to all parish and town councils); see the provisions of the [Local Audit and Accountability Act 2014](#).⁷ Councils with an income and expenditure of under £25,000 are not subject to routine audit (see section 5 below).

1.5 Scotland, Wales and Northern Ireland

The remarks in this paper apply to parish councils in England unless otherwise indicated. ‘Community councils’ exist in Scotland and Wales: responsibility for them is devolved.

Welsh parish councils were included in the Local Government Act 1894. They were renamed ‘community councils’ by the [Local Government Act 1972](#). Welsh community councils cover some 70% of the population of Wales, existing throughout the country with the exception of the largest cities. The activities of community councils are covered by the [Public Services Ombudsman for Wales](#).

Following [a study of the sector](#) by researchers at the University of Aberystwyth in 2003, the Welsh Government published an [evidence review on community and town councils](#) in 2014, followed by an [independent review](#) in 2018. The review made a number of recommendations, including:

- Establishing community or town councils in all areas which do not currently have one;

⁷ [Local Audit and Accountability Act 2014, s.6.](#)

- Encouraging Welsh local authorities to transfer ‘place-based services’ to community councils wherever possible. These might include street furniture; community assets; museums and libraries; street bin collection and grass cutting; footpaths; open spaces; community transport; and leisure centres;⁸
- A comprehensive review of town and community council boundaries;
- Mandatory training for community and town councillors, and mandatory qualifications for clerks.

The report also noted that 64% of town and community council seats in Wales were uncontested at their most recent election.

The Auditor General for Wales published a paper in October 2020 entitled [Future audit arrangements for community and town councils in Wales](#). This followed a consultation published in January 2020. The paper announced a three-year pattern of two limited procedure audits and one transaction-based audit for all community and town councils. Audit of Welsh community and town councils is governed by the [Public Audit \(Wales\) Act 2004](#).

Scotland has around 1,200 active community councils, established under the [Local Government \(Scotland\) Act 1973](#).⁹ Scottish community councils have no defined functions. Section 51(2) of the 1973 Act specifies:

In addition to any other purpose which a community council may pursue, the general purpose of a community council shall be to ascertain, co-ordinate and express to the local authorities for its area, and to public authorities, the views of the community which it represents, in relation to matters for which these authorities are responsible, and to take such action in the interests of that community as appears to it to be expedient and practicable.

In 2011, the Scottish Government set up a [short-life working group](#) to examine the future of community councils. This produced a report in 2012, which recommended better sharing of good practice and experience between community councils, and more joint working between them and local authorities.¹⁰ Recent developments can now be found on the [Scottish community councils website](#).

In Northern Ireland, civil parish councils did not form part of the Local Government Act 1898, which reorganised local government throughout Ireland. There has therefore never been an equivalent of the directly elected English parish council in Northern Ireland. No proposals were made to introduce them in the 2014-15 local government reorganisation, nor in the preceding one, which culminated in the [Local Government Act \(Northern Ireland\) 1972](#).

⁸ Ibid., p15

⁹ Scottish Government, [Community Councils](#)

¹⁰ Community Council Short-Life Working Group, [Report and recommendations](#), 2012

2

Finance and the precept

Parish councils may raise a ‘precept’ on the council tax bills produced by their local billing authority (unitary authority or district council). This is essentially a demand for a sum to be collected through the council tax system. Council tax-payers cannot refuse to pay it, and the billing authority cannot refuse to levy it. It is the only source of tax revenue available to parish councils.

Historically, parish councils were able to raise a ‘rate’ from the time of their establishment in 1894: this was linked to their then duties under the Poor Laws. Rates were levied on non-domestic and domestic property until 1990, when the rates were replaced by the National Non-Domestic Rate and the Community Charge respectively. Since then, parishes have precepted on domestic property only, via the Community Charge and then the council tax.

Charter trustees also have the right to precept on their principal authorities. All sixteen set a precept in 2021-22. The Middle Temple and Inner Temple have the right to precept upon the City of London.

In 2021-22, MHCLG data shows a total of £617.27 million being levied via the parish precept (excluding Charter Trustees and Temples), which constitutes 1.8% of the total council tax demand. 8,877 parish councils raised a precept. The average precept raised on a Band D property is £71.86.¹¹

In 2018-19, the largest amount precepted by a parish council was £3.41 million, and the lowest was £22. The largest amount per Band D household was £371.17 and the smallest 26p. The largest taxbase of a precepting parish was 36,636, and the smallest 0.8.¹²

Since 2012-13, the Government has had the power to require parish and town councils to hold a referendum if their precept increases by more than a set threshold. Thresholds are imposed on principal authorities every year (see the Library briefing [Council tax: local referendums](#)), but to date the Government has never extended them to parish councils. Initial proposals were made in

¹¹ See [Council Tax levels set by local authorities: England 2021-22](#).

¹² See the statistical release [Council Tax statistics for town and parish councils in England: 2018 to 2019](#). The taxbase is the number of households liable for the precept, expressed in terms of Band D households. Households in council tax bands other than D are expressed in terms of the proportion of a Band D bill that they pay, as set in section 5 (1) of the [Local Government Finance Act 1992](#). Therefore, for instance, a Band E property counts as 11/9 of a property when counting the taxbase. This is why the taxbases quoted here have decimal points.

respect of the 2017-18 financial year, but they were not proceeded with following objections from the sector.¹³

The average increase in parish precepts in 2021-22 was 2.8%. This was a fall from 4.0% in 2020-21, 4.9% in 2019-20, 4.9% in 2018-19 and 6.3% in 2017-18.¹⁴

2.1

Other sources of finance

Parish and town councils have general powers to employ staff, own and manage assets and funds, and give grants to local bodies. They can accept gifts from parishioners, and bid for funds from grant-making bodies or Government initiatives. They may set up lotteries to raise funds locally, though they must hold a licence from the Gambling Commission under section 98 of the [Gambling Act 2005](#).

Parish and town councils may borrow money, including from the Public Works Loan Board, with approval from the Government.

Parish and town councils are not covered by section 31 of the [Local Government Act 2003](#), which permits the Government to pay grants for any purpose to local authorities. Thus the Government has no power to pay general grants to parish and town councils. Powers to pay grants for specific purposes exist: for instance, section 120 of the [Localism Act 2011](#) permits money to be paid to any body in connection with neighbourhood planning.

¹³ DCLG, [The 2017/18 Local Government Finance Settlement: Technical Consultation Paper](#), 2016, p.8; see also [HCDeb 19 Dec 2017 c919](#)

¹⁴ See [Council Tax levels set by local authorities: England 2021-22](#), p11

3

Parish council powers

Parish and town councils hold a range of powers, found in various pieces of legislation. A list of some of the more significant powers can be found [on the parishcouncils.uk website](https://www.parishcouncils.uk). They are also subject to legal requirements regarding the holding of meetings, Freedom of Information, and councillor conduct. Many smaller parish councils make only limited use of their powers, whilst some larger town councils have substantial staff teams and may run a number of local facilities.

The only duty applying solely to parish councils and not to other tiers of government is the power to obtain and supply land for allotments if local demand cannot be met.¹⁵

Parish councils in England and community councils in Wales may use the General Power of Competence.¹⁶ A parish council wishing to use the power must formally resolve that it is an ‘eligible council’. The qualifications for eligibility are that the clerk has completed a course in local administration, and that at least two thirds of councillors have been elected (i.e. not co-opted).¹⁷ These provisions also apply to community councils in Wales. When a Welsh community council wishes to use the general power, the most recent audit opinion on the community council’s accounts must also be unqualified.¹⁸

Parish councils are entitled to make proposals for changes in legislation under the [Sustainable Communities Act 2007](#) and its successor, the [Sustainable Communities Act 2007 \(Amendment\) Act 2010](#). Initially they were not included amongst the local authorities permitted to do this: this was changed by the [Sustainable Communities \(Parish Councils\) Order 2013](#) (SI 2013/2275).¹⁹

Parish councils may request the ‘listing’ of an ‘asset of community value’ under the [Community Right to Bid](#); bid to run local public services via the [Community Right to Challenge](#); or lead the development of a [neighbourhood plan](#) or a [Community Right to Build order](#).

Either the parish council itself, or individual parish councillors, may act as trustees for a local charity. This task fell frequently to the 19th century ecclesiastical parish councils, which had a leading role in poor relief. Parochial charities today are subject to charity legislation (including the

¹⁵ See the [Small Holdings and Allotments Act 1908](#), s23.

¹⁶ See the Localism Act 2011 s1&ff; [Local Government and Elections \(Wales\) Act 2021](#) s24

¹⁷ See the [Parish Councils \(General Power of Competence\) \(Prescribed Conditions\) Order 2012](#) (SI 2012/965).

¹⁸ [Local Government and Elections \(Wales\) Act 2021](#), s30

¹⁹ See also the Library briefing paper [Sustainable Communities Act](#) (SN/PC/04724).

[Charities Act 2006](#)) and to regulation by the Charity Commission. Parish councillors who act as trustees must distinguish their role as councillor from their role as trustee, even if they were appointed to represent the parish council on the charity.

The National Association of Local Councils published a report titled [Points of Light](#) in 2018, highlighting several dozen examples of the type of work done by parish councils across England.

3.1 Parish meetings

The [Local Government Act 1972](#) requires a parish meeting to take place in all parishes. A parish meeting is a distinct legal entity from a parish council. It must hold two meetings per year, one of which must take place between 1 March and 1 June.²⁰ A parish with a population of over 300 may choose to constitute a separate parish council, but it is under no obligation to do so. Where a parish council exists, the parish meeting must still take place, once a year, between 1 March and 1 June, and the parish council must meet, separately, at least once per year.²¹

3.2 Parish polls

A parish poll (i.e. a referendum) can be demanded on any subject by ten electors, or one third of electors present (whichever is the lower number) at a parish meeting.²² The poll must be organised by the district or unitary council in the area, but the parish council must pay. The outcome is not binding on the parish council. Further details are available in the Library briefing paper [Local government: polls and referendums](#).

Section 42 of the [Local Audit and Accountability Act 2014](#) permits the Secretary of State to amend the rules around parish polls via regulations.²³ This followed suggestions that vexatious use was being made of parish polls by local electors with an axe to grind.²⁴

A consultation was issued in late 2014, closing on 30 January 2015.²⁵ The consultation proposed that a poll should be approved by a majority at the parish meeting, and that that majority should consist of 10% of the parish meeting's electors (up to a maximum of 60). The consultation also proposed restricting the subject matter of parish polls to matters on which the parish

²⁰ In practice, there are no sanctions in existence if a parish meeting is not held.

²¹ See the [Local Government Act 1972](#), sections 9-19.

²² [Local Government Act 1972](#), schedule 12 paragraph 18.

²³ [Local Government and Accountability Act 2014](#), section 42(3).

²⁴ DCLG, [Parish polls](#), 2014, p14

²⁵ DCLG, [Parish polls](#), 2014

council or parish meeting could make a decision, or express a view as a statutory consultee. The consultation document stated that this proposal reflected instances where “individuals have misused the current wide definition to call for polls on matters which were unrelated to the local area or the functions of a parish”.

No response has been published to this consultation. An answer to a Parliamentary Question on 12 September 2017 stated that “work on revising the regulations has started”.²⁶ In October 2018, the then Minister for Local Government, Rishi Sunak, told the NALC annual conference:

You told me that Parish Polls needed reforming – we’ve listened and we’re now updating the rules to modernise them and ensure they better meet your needs. I hope to introduce new regulations on this as soon as parliamentary time allows.²⁷

In Wales, the power to demand a parish poll was abolished by section 162 of the [Local Government and Elections \(Wales\) Act 2021](#).

The Law Commission’s interim report on its review of electoral law, published in February 2016, recommended that the Government should define more specifically which matters can be subject to a parish poll:

In our view, under the current law, a parish poll question cannot lie outside the proper range of decision making by a parish council, or be devoid of practical application. Nevertheless, our view is that it would be helpful if the Government were to define the circumstances in which such a poll might be called. Given that this is a matter under review, we will make the general recommendation that legislation should define the issues of parish concern that may be put to a parish poll.²⁸

3.3 Co-option: ordinary elections

Where a parish council has not filled all its seats at an ordinary election, the councillors who have been elected (unopposed) may co-opt additional members until all of the council’s seats are filled.²⁹ A parish council must have filled at least one-third of its seats through election (which may be uncontested) in order to co-opt additional councillors. Temporary appointment of members of parish and community councils where the council is not quorate is provided for by section 91 of the [Local Government Act 1972](#):

Where there are so many vacancies in the office of parish or community councillor that the parish or community council are

²⁶ [PQ HC 7727 2017-19](#), 12 Sep 2019

²⁷ MHCLG, [Rishi Sunak MP’s speech to the NALC conference](#), 31 October 2018.

²⁸ Law Commission, [Electoral Law: An Interim Report](#), 2016, p. 205.

²⁹ See the [Representation of the People Act 1985](#), s21

unable to act, the district council [or Welsh principal council] may by order appoint persons to fill all or any of the vacancies until other councillors are elected and take up office.

There are no fixed procedures for how the decision to co-opt must be made, other than that it must be taken at a meeting of the council. The parish council guide [Arnold-Baker on Local Council Administration](#) says that all successful co-optees must receive an absolute majority of votes in favour of co-opting them. This means that, where multiple co-options are taking place, it may be necessary to take separate votes to co-opt each individual member.³⁰

3.4 Co-option: by-elections

Section 89(6) of the [Local Government Act 1972](#) states that a casual vacancy (i.e. a vacancy requiring a by-election) among parish or community councillors shall be filled by election or by the parish or community council in accordance with rules made under section 36 of the [Representation of the People Act 1983](#).³¹

When a ‘casual vacancy’ arises on a parish or town council, the council must give public notice of the fact. A by-election to fill the vacancy is then only held if it is requested by ten local electors (known as ‘claiming the poll’). This request must be made to the district council, within 14 days of the parish council giving public notice of the vacancy.³² Any election must be held within 60 days of the public notice of the vacancy.

‘Public notice’ must be given in accordance with section 232 of the [Local Government Act 1972](#): by “posting the notice in some conspicuous place or places within the area of the local authority” and “in such other manner, if any, as appears to the local authority to be desirable for giving publicity to the notice”.

If no request is received for a by-election, then the parish or town council **must** fill the vacancy by co-option (unless the next regular election is less than six months away, in which case the seat **may** be left empty until that time).³³

³⁰ Paul Clayden, [Arnold-Baker on Local Council Administration](#), 10th ed, 2016, p49-50

³¹ [The Local Elections \(Parishes and Communities\) \(England and Wales\) Rules](#), 2006 No. 3305

³² See the [Local Elections \(Parishes and Communities\) \(England and Wales\) Rules 2006](#) (SI 2006/3305), paragraphs 5 (2) and (3).

³³ *Ibid*, paragraphs 5 (5) and (6).

3.5

Frequency of co-option

Co-option can be controversial, due to the perception that it permits parish or town councils to operate as ‘closed shops’. No comprehensive data is available on the number of councillors who have been co-opted. However, NALC published a report that surveyed parish and town councillors between November 2017 and June 2018. Of 2,821 respondents, 38% were co-opted, 33% elected unopposed, and 29% won a contested election.³⁴ The report also surveyed parish and town councils themselves. Of 842 responding councils, just over 50% reported co-opting councillors following the 2019 election – indicating that there were fewer candidates at the election than there were seats available on the council.

The final report of the Councillor Commission (established by De Montfort University with the Municipal Journal), published in 2017, found some support for the process of co-option from within the parish and town council sector, as a valid alternative to the electoral process. Respondents to the Commission suggested that:

...not all those interested in becoming councillors are of the same type of person who is ready to contest an election to a principal council. In other words, the image of an ‘election’ as an intense, party political and personal contest deters many from standing. Thus, co-option provides an alternative route on to the council for those lacking the confidence for confronting an election process and that this route may also provide an alternative for enhancing minority representation on parish councils and increasing the diversity of the parish councillor population.³⁵

³⁴ NALC, [Local council elections 2019](#), 2020. The report does not suggest that the survey of councillors was representative. Councillors elected unopposed are regarded as being elected, not co-opted.

³⁵ De Montfort University / Municipal Journal, [The Voice of the Councillor](#), 2017, p90

4 Creating new parish councils

4.1 Creation and abolition

No comprehensive data source exists on the creation and abolition of parish and town councils in England. NALC (the National Association of Local Councils) suggested that, in 2018, there were some 270 more parish and town councils in England than there were just over 15 years ago.³⁶

Local government restructuring in the 2010s has frequently led to the creation of new parish or town councils, particularly in larger towns. This has often followed the creation of larger unitary authorities in place of county and district councils. Examples of new town councils include Salisbury, Christchurch, Weymouth, Northampton, and Shrewsbury. Elsewhere, town councils have been created in previously unparished areas that have had their own borough or district councils in the past, such as Ramsgate, Bexhill, Kidderminster and Lowestoft.

Parish councils can be ‘grouped’. This sees a single council established for a small number of neighbouring parish areas. The individual parishes must still hold their own parish meetings. MHCLG council tax data for 2021-22 lists 648 groupings of parish councils in England.

Parish councils may be abolished by being merged with, or divided between, neighbouring parishes. More rarely, a parish council may be abolished entirely, and its area will have no parish council representation.

Both the Coalition Government (2010-15) and the preceding Labour Government (2005-10) spoke favourably of parish and town councils. The 2006 local government white paper, [Strong and prosperous communities](#), stated:

We will make it clear that there will be a presumption in favour of the setting up of parish councils so that local authorities will be expected to grant communities’ requests to set up new parish councils, except where there are good reasons not to, and that existing parish councils are not to be abolished against the wishes of local people.³⁷

The Coalition Government’s 2013 consultation paper on setting up new parish councils said:

³⁶ See NALC, [Create a Council](#), accessed on 30 November 2018.

³⁷ DCLG, [Strong and prosperous communities](#), 2006, p43

We believe that localism is best achieved when it is led by the local communities themselves. We see town and parish councils as playing a vital role in helping local people to make this happen; it is for this reason we want to support those neighbourhoods who want to set up a parish council.³⁸

Technical guidance and support for setting up new councils is available from the National Association of Local Councils (NALC).³⁹

Parish councils do not have the power unilaterally to move from one principal council to another, though this is occasionally proposed. For instance, the town of Yarm held a referendum in May 2014 on moving from Stockton Borough Council to Hambleton District Council in North Yorkshire. The proposal was supported by 1,465 votes to 177 on a 24% turnout. However, such a change would need to be recommended by the Local Government Boundary Commission for England and approved by Parliament.

There have been instances of parish areas, or parts of parish areas, moving between principal councils in the past, but this has normally happened as part of a wider boundary review or a process of creating unitary authorities. For instance, several parishes moved from North Yorkshire into the York City Council area in the 1990s, when York City Council became a unitary authority.

4.2

Community governance reviews

The procedure to create a new parish council can be found in the [Local Government and Public Involvement in Health Act 2007](#). Under the 2007 Act, a principal council in England may undertake a ‘governance review’, either on its own initiative or in response to a petition from local electors (see section 4.3). The governance review must examine whether one or more parish councils should be created, divided or merged in order to ensure that local government arrangements are ‘effective and convenient’ and ‘reflect the identities and interests of the community in that area’.⁴⁰ Guidance was most recently published in March 2010.⁴¹ The guidance recommends that a community governance review should take place every 10-15 years.⁴²

In conducting the review, the council must consult local electors and any other persons or bodies which are considered by the council to have an interest in the review. The guidance emphasises that councils should take various factors into account, including the impact of community governance

³⁸ DCLG, [Government response to consultation on making it easier to set up new town and parish councils](#), 2013, p.4

³⁹ See NALC, [How to create your own local council](#) and NALC, [Create a Council](#), accessed on 30 November 2018.

⁴⁰ These phrases are from section 93(4) of the 2007 Act.

⁴¹ DCLG/LGBCE, [Guidance on community governance reviews](#), March 2010

⁴² *Ibid.*, p. 13

arrangements on community cohesion, and the size, population and boundaries of a local community or parish.

The review may recommend that the parish remains as it is; that the area of the parish be altered or merged with another parish; or that the parish council should be abolished. For instance, a town council could seek to extend its area to cover a newly-built housing estate on the edge of the town; or a newly-expanded village could seek to 'secede' from an existing parish council area. There is no requirement for a community governance review to adhere to historical parish boundaries, or county or district ward boundaries.

There is no guarantee that a community governance review will result in a new parish.⁴³ The guidance states that 'clear and sustained' support for the abolition of a parish council (i.e. over two terms of elected office) should be demonstrated before a council is abolished.⁴⁴

There is no central record of the outcomes of community governance reviews, or of any councils that are created or abolished as a result.

4.3 Petitions

A council which receives a valid petition is under a duty to carry out a community governance review as requested by the petitioners, unless it has already conducted a review of the same area, or of substantially the same area, during the previous two years. Once the review has started (that is, the terms of reference have been published), it must be concluded (i.e. the recommendations must be published) within 12 months.

A petition may relate to any area, whether currently parished or unparished, within the geographical limits of the local authority. Principal authorities may themselves implement the outcome of a review by order, provided that they have carried out the required consultation.

Petitions should be submitted to the principal council (the district or unitary authority), and it will be for them to take the matter forward by means of a community governance review. A petition must meet the conditions set out in section 80 of the 2007 Act in order to be valid. It must define the area to which the review is to relate and may include a map. It must specify one or more recommendations which the petitioners would wish a review to consider making. Government guidance explains that those recommendations can be about a variety of matters, including:

- The creation of a parish;
- The name of a parish;
- The establishment of a separate parish council within an existing parish;

⁴³ Ibid., p. 27-8.

⁴⁴ DCLG, [Community governance reviews: guidance](#), 2010, p.34-5

- The alteration of boundaries of existing parishes;
- The abolition of a parish;
- The dissolution of a parish council;
- Changes to the electoral arrangements of a parish council;
- Whether a parish should be grouped under a common parish council or de-grouped.⁴⁵

Minimum levels of support for petitions are set out in section 80 of the 2007 Act. These were amended in 2015 (see section 4.4 below):

- If the petition area has fewer than 500 local government electors, the petition must be signed by at least 37.5% (previously 50%) of the electors;
- If the petition area has between 500 and 2,500 local government electors, the petition must be signed by at least 187 (previously 250) electors;
- If the petition area has more than 2,500 local government electors, the petition must be signed by at least 7.5% (previously 10%) of the electors.

4.4

Changes to system for establishing parish councils

The Government published a consultation paper entitled [Making it easier to set up new town and parish councils](#) in October 2012, followed by a response on 9 September 2013.⁴⁶ The following changes were then made in 2015:⁴⁷

- The petition thresholds were reduced (see section 4.3 above);
- Community groups which have produced a neighbourhood plan will not be required to produce a petition in order to trigger a governance review: they will merely need to submit a ‘community governance application’;
- Reviews must take a maximum of one year from the receipt of a valid petition (previously the limit of one year ran from the start of the review itself).

⁴⁵ DCLG/LGBCE, [Guidance on community governance reviews](#), March 2010, para 40

⁴⁶ See DCLG, [Government response to consultation on making it easier to set up new town and parish councils](#), September 2013; [HC Deb 9 Sep 2013 c39WS](#)

⁴⁷ See the [Legislative Reform \(Community Governance Reviews\) Order 2015](#) (SI 2015/998). The response to the consultation was published in May 2014: DCLG, [Proposal to use a legislative reform order to set up town and parish councils](#), 2014.

4.5 Creation of new wards

The [Local Government and Public Involvement in Health Act 2007](#) also governs the creation of new wards in parish councils. Under section 90 of the Act, a community governance review may recommend that a parish council should continue to exist, but that changes should be made to its electoral arrangements. Section 95 specifically requires the review to consider whether wards should be created,⁴⁸ and that it must consider ‘local ties’ and boundaries that are ‘easily identifiable’. Under section 86 (6) of the 2007 Act, the Local Government Boundary Commission for England must give its assent to any changes in electoral arrangements proposed under a community governance review.⁴⁹

4.6 Small parishes

There is provision in the [Local Government Act 1972](#) for the dissolution of the council for a small parish. Where a parish has 150 or fewer electors, the parish meeting may apply to the district or unitary council for the parish council to be abolished.⁵⁰ There is also a power for parish meetings to apply to the district for two or more parishes to be grouped together under a common parish council, or for existing grouping arrangements to be changed or abandoned.⁵¹

4.7 Alternatives to parish councils

Principal councils must also consider other forms of community governance when conducting a review. These may be seen either as alternatives to, or stages towards, the establishment of a parish council. The guidance mentions the following alternative forms of governance:

- Area committees;
- Neighbourhood management arrangements;
- Tenant management organisations;
- Area/community forums;

⁴⁸ This includes consideration of new wards. In many parish councils, all the councillors are elected in a single ward.

⁴⁹ DCLG/LGBCE, [Guidance on community governance reviews](#), March 2010, p47-8

⁵⁰ [Local Government Act 1972](#), section 10

⁵¹ [Local Government Act 1972](#), section 11

- Residents' and tenants' associations;
- Community associations.⁵²

4.8

Parishes in London

The [Local Government and Public Involvement in Health Act 2007](#) reintroduced the power to create parish councils in Greater London, and introduced it for the first time in the former London County Council area. The last parish councils in the Greater London area were abolished in the 1930s following the creation of several new boroughs and urban districts.

Since the passage of the 2007 Act, one new parish council has been established in Greater London, in Queen's Park. A community governance review took place in Tower Hamlets in 2018-19, in response to a petition to create a community council in Spitalfields and Banglatown. Following the publication of the [final report of the review](#), Tower Hamlets [rejected the proposal](#) in July 2019.

⁵² DCLG/LGBCE, [Guidance on community governance reviews](#), March 2010, paras 136-146

5

Complaints regarding parish councils

Constituents may wish to complain about the decisions, the procedures, or the conduct of members or staff of their parish council. There are few remedies available in this regard outside of the four-yearly elections to the parish council.

The route to make a complaint depends upon the subject of complaint: there is no single organisation which oversees parish councils. The Government has taken the view that parish councils are accountable to their electorate principally through the ballot box. The most recent Parliamentary Question on the issue of complaints was answered as follows:

There are various mechanisms in place for members of the public to make complaints about their town or parish council.

These include: using the parish council's complaints procedure; raising the matter at the annual parish meeting; questioning, or making an objection to, the auditor during the public inspection period of accounts; or by joining with a group of local electors to call for a parish poll on the issue. In instances of councillor misconduct, complaints can be made to the principal council's monitoring officer who can investigate.

Central Government does not have the power to intervene in parish council matters and believes that the current local system of redress is proportionate to the sector and consistent with this Government's principles on localism.⁵³

Complaints about the behaviour of parish councillors, or employees of the parish council, should be addressed to the chair of the parish council in the first instance.

In general, it is not possible to have a parish council's decision reversed at a higher level unless it can be demonstrated that the decision is unlawful. Like other public authorities, parish councils are subject to action in the courts and judicial review. Though each parish council has a relationship with the district or unitary council in whose area it lies, the district or unitary council has little power of control or direction over the parish council. Concerns over the legality of parish councils' actions can be referred to the monitoring officer of the district or unitary authority in the area.

⁵³ [PQ 153235 2017-19, 20 June 2018](#).

5.1

Audit

Parish and town councils must appoint an auditor. In practice, all parish and town councils have opted in to the collective procurement arrangements permitted by the [Local Audit and Accountability Act 2014](#). Their auditors are appointed by [Smaller Authorities Audit Appointments \(SAAA\)](#), a not-for-profit body established by the National Association of Local Councils (NALC), the Society of Local Council Clerks (SLCC), and the Association of Drainage Authorities (ADA). SAAA's website provides details of which auditors have been appointed to each parish or town council.

Allegations of financial irregularities in a parish council can be reported to the auditor, who must then decide whether to investigate them. Parish councils with an income and expenditure under £25,000 are not subject to annual audit, but must still appoint an auditor, who is responsible for investigating any allegations of mismanagement. This category of parish councils is also subject to the requirements of the [Transparency Code for Smaller Authorities](#): see the Library briefing [Local government transparency in England](#).

5.2

Standards

Parish councils must establish a code of conduct for councillors, but they may opt in to the one operated by their district or unitary authority. That authority must investigate conduct-related allegations against parish and town councillors. Further information is available in the Library briefing [Local government: the standards regime in England](#).

The standards regime covers co-opted members as well as elected members. Schedule 2 of the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#) (SI 2012/1464) lists the categories of pecuniary interests which must be disclosed by members of parish councils. Under section 33 of the [Localism Act 2011](#), parish councils are permitted to grant a 'dispensation' to councillors to allow them to continue to take part in discussion on an issue in which they have a pecuniary interest.

6 Parish and town councils: recent policy changes

6.1 Parish council funding of churches

An issue arose in the late 2010s regarding the legal power of parish councils to fund repairs to local churches. This is a grey area in the law, with two statutory provisions pointing in opposite directions.

Section 8 of the [Local Government Act 1894](#) provides that parish and town councils cannot give funding to ecclesiastical charities. There is a competing provision in section 137 (3) of the [Local Government Act 1972](#) that allows parish and town councils to give funding to charitable bodies. Awareness that the law is unclear has discouraged many parish councils from providing funding for churches, in case they attract a legal challenge. Councils concerned over the legality of proposed donations should take legal advice.

The [2017 Taylor Review](#), ‘Sustainability of English Churches and Cathedrals’, addresses this issue:

Evidence submitted to the Review suggested that there is considerable confusion as to whether the 1972 Act supersedes the Local Government Act 1894, and that the 1894 Act is still perceived as a barrier, preventing investment in church buildings by local authorities.

Clarification on this point should be given, whether by repealing section 8 of the 1894 Act, or by the issue of guidance. This should clarify that local authorities can invest in church buildings in accordance with Section 137 of the Local Government Act 1972.

Additionally, repeal or the issue of guidance should clarify that certain parish councils are also able to fund church buildings using powers contained in the Localism Act 2011.⁵⁴

Two detailed accounts of the issues can also be found on the Law and Religion blog, [one from March 2017](#) and [one from June 2020](#).

⁵⁴ [Taylor Review, Sustainability of English Churches and Cathedrals](#), 2017, pp31-32

6.2 Public participation

In England, local electors do not have a right to speak at a meeting of a parish council, though a council may choose to give them the opportunity to do so. Welsh community councils must “give members of the public in attendance a reasonable opportunity to make representations about any business to be transacted at the meeting”.⁵⁵ Welsh community councils must also produce an annual report, a training plan for their councillors and staff, and they must publish certain information electronically.⁵⁶

A parish meeting is convened “for the purpose of discussing parish affairs”,⁵⁷ implying that any electors in attendance may speak. All local electors in attendance have the right to vote on matters raised within a parish meeting.

6.3 Online meetings

The legislation regarding parish and town councils meeting virtually / online is the same as that covering principal councils. From 4 April 2020 to 6 May 2021, online meetings were permitted. The relevant regulations lapsed as of 7 May 2021. The Coronavirus Act 2020 prevents further regulations permitting online meetings from applying after 7 May 2021. This means that primary legislation would now be required to permit online meetings in England.

The [Local Government Act 1972](#) provides that any councillor who fails to attend a meeting for six months is automatically disqualified from his or her seat, unless the council has previously passed a dispensation waiving this rule.⁵⁸ Councillors who attended online meetings during the Covid-19 pandemic are regarded as being in attendance, and would therefore not be caught by this provision.⁵⁹ However, councillors who refused, or were unable, to attend online meetings for a period of over six months could be disqualified.

All local authorities in Scotland and Wales are permitted to hold online meetings, via devolved legislation.⁶⁰

⁵⁵ See the [Local Government and Elections \(Wales\) Act 2021](#), s48.

⁵⁶ See the [Local Government and Elections \(Wales\) Act 2021](#), s52; s67; [Local Government \(Democracy\) \(Wales\) Act 2013](#), s55

⁵⁷ [Local Government Act 1972](#), section 9(1).

⁵⁸ [Local Government Act 1972](#), s85 (1)

⁵⁹ See the [Local Authorities and Police and Crime Panels \(Coronavirus\) \(Flexibility of Local Authority and Police and Crime Panel Meetings\) \(England and Wales\) Regulations 2020](#), regulation 5

⁶⁰ See section 47 of the [Local Government and Elections \(Wales\) Act 2021](#); section 43 of the [Local Government in Scotland Act 2003](#)

6.4

The Local Government Ombudsman and parish and town councils

Parish and town councils in England do not fall within the remit of the Local Government and Social Care Ombudsman. However, when parish and town councils are carrying out functions on behalf of county, district or unitary authorities, [it may be possible to complain to the Ombudsman](#).

In March 2015, the Government issued a consultation on extending the remit of the Local Government Ombudsman to certain parish and town councils.⁶¹ The consultation proposed to bring 'larger parish councils' within the Ombudsman's remit. It invited views on whether this should be done, and on how 'larger parish councils' should be defined: this might be via a population threshold, or via a threshold related to the size of the parish council's precept. The consultation suggested a population threshold of 35,000, and/or a precept of £1 million, might be used. A council which came under the Ombudsman's remit would remain under its remit until the next census data is published.

The consultation closed on 30 June 2015, but no Government response to it has been published.

The Government published a [draft Public Service Ombudsman Bill](#) in December 2016, which set out its plans to introduce a new Public Service Ombudsman. The draft Bill would have extended the jurisdiction of the Public Service Ombudsman to all parish and town councils.⁶² That Bill has not been introduced to Parliament.

The remit of the Public Service Ombudsman in Wales covers community councils in Wales, including matters relating to councillor conduct.

6.5

Council tax support and precept levels

Local council tax support schemes replaced council tax benefit from 1 April 2013. The funding provided for council tax benefit was passed to local authorities. A side-effect of the ending of council tax benefit was a reduction in the council tax base. The council tax base is the taxable capacity of a given area, normally expressed in terms of Band D properties. Council tax benefit was paid via a cash payment into the individual recipient's account. Therefore, if a resident was in receipt of council tax benefit, this did not change the council tax base.

⁶¹ DCLG, [Extending the remit of the Local Government Ombudsman to larger parish and town councils](#), 2015

⁶² See [Draft Public Service Ombudsman Bill](#), December 2016.

Since 2013-14, the council tax base has reflected the actual amounts paid by residents who pay less council tax as a result of local support schemes. As a result, the council tax base decreased in most areas (though not in all: this depends on local circumstances). Where it has decreased, the same level of parish council precept produces less revenue, from the same number of properties, than it did prior to 2013-14.

A DCLG consultation in August 2012 stated that the Government was minded to prevent this situation, by protecting the calculation of the precept from the changes in the council tax base caused by localisation. This would mean the amount of precept collected would be unaffected.⁶³ This was supported by a large majority of responses to the consultation.⁶⁴ However, [the Government response to the consultation](#), published in November 2012, reversed this position.⁶⁵ Hence, where the council tax base is reduced, parish and town councils now receive less money from the precept than previously.⁶⁶

The funding for council tax support schemes provided to billing authorities for 2013-14 included a sum in respect of the funding that would be lost to parish councils as a result of this decision. However, the Government did not oblige billing authorities to pass this sum on to parish and town councils.⁶⁷

From 2014-15, funding for council tax support schemes – and the sums intended for parish and town councils – has been rolled into general local authority grant funding. It is therefore not possible to identify a specific amount which is intended for use for council tax support schemes. Nevertheless, the issue continued to attract controversy. The National Association of Local Councils (NALC) claimed that £40 million of the 2014-15 local government finance settlement was earmarked for parish and town councils, but only £31 million was passed to them by billing authorities.⁶⁸

6.6

Parish councils and business rates

In 2014, a formal proposal was made to permit a share of business rates to be directed to parish and town councils. This was made by Sevenoaks Town Council, under the Sustainable Communities Act procedure. Sevenoaks Town Council claimed to have had support from over 400 organisations. The idea recalls the pre-1990 rating system (see section 3 above), under which parish

⁶³ DCLG, [Localising support for council tax: council tax base and funding for local precepting authorities](#), August 2012, p.12

⁶⁴ Ibid., p. 7

⁶⁵ DCLG, [Localising Support For Council Tax: Council tax base and funding for local precepting authorities: Government response to the outcome of consultation](#), November 2012, p.6

⁶⁶ See the [Local Authorities \(Calculation of Council Tax Base\) \(England\) Regulations 2012](#) (SI 2012/2914).

⁶⁷ DCLG, [Localising Support For Council Tax: Council tax base and funding for local precepting authorities: Government response to the outcome of consultation](#), November 2012, p. 16

⁶⁸ See NALC, "[Parishes short-changed by £9 million](#)", 24 October 2014.

and town council precepts applied to both domestic and non-domestic rates. The proposal was rejected by the Government.⁶⁹

6.7 Parish councils and neighbourhood planning

The [Localism Act 2011](#) permits parish and town councils to develop a 'neighbourhood plan'. Neighbourhood plans must be in broad conformity with the local structure plan. A neighbourhood plan may be developed in consultation with the community, and it must then be subjected to an examination in public. It is then subject to a local referendum, and if a 'yes' vote is obtained, it will become the land-use plan for the parish area. Neighbourhood plans may also be developed by neighbourhood forums where no parish council exists. Further information is available in the Library briefing paper [Neighbourhood planning](#).

In addition, in areas where there is a neighbourhood development plan in place, the parish council will be able to receive 25% of the revenues from any Community Infrastructure Levy arising from the development that they have chosen to accept.⁷⁰ Where no parish or town council exists, the guidance states that:

Communities without a parish or town council will still benefit from this incentive, with the local planning authority retaining it and spending it in accordance with the wishes of the community.⁷¹

The decision to establish a Community Infrastructure Levy is taken by the principal council, not the parish council. Further details are available in the Library briefing paper [Community infrastructure levy](#).

6.8 Cheques

Until 2014, parish councils were required to make all payments by cheques signed by two councillors. This requirement dated from section 150 (5) of the [Local Government Act 1972](#). The [Legislative Reform \(Payments by Parish Councils, Community Councils and Charter Trustees\) Order 2014](#) (SI 2014-580) removed this requirement for both England and Wales.⁷²

⁶⁹ Ruth Keeling, "Parish council business rates grab rejected", [Local Government Chronicle](#), 26 June 2013

⁷⁰ See the [Community Infrastructure Levy \(Amendment\) Regulations 2013](#) (SI 2013/982)

⁷¹ DCLG, [Communities to receive cash boost for choosing development](#), 10 January 2013

⁷² See the initial consultation at DCLG, [Payments by parish and community councils and charter trustees](#), 2012; and a written statement announcing the decision at [HC Deb 10 Sep 2013](#) c43WS

6.9

Electronic agendas

In January 2015, the Government made a Legislative Reform Order covering England, permitting parish and town councillors to receive agendas electronically if they so choose.⁷³ Prior to this, the Local Government Act 1972 required council meeting agendas to be supplied to councillors in paper form.⁷⁴

⁷³ See the [Local Government \(Electronic Communications\) \(England\) Order 2015](#) (SI 2015/5)

⁷⁴ Ibid.

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