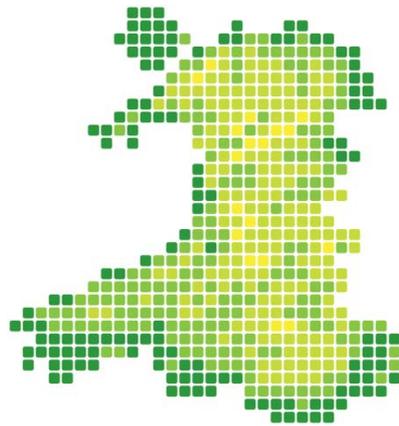


LOCAL DEMOCRACY AND BOUNDARY COMMISSION FOR WALES



Comisiwn Ffiniau a
Democratiaeth Leol
Cymru

Local Democracy and
Boundary Commission
For Wales

GUIDANCE FOR PRINCIPAL COUNCILS ON THE REVIEW OF COMMUNITIES

APRIL 2018

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FOREWORD

This updated guidance has been produced by the Commission at the request of the Cabinet Secretary for Finance and Local Government to support greater consistency in the manner in which community reviews are conducted.

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

In the Reforming Local Government: Resilient and Renewed White Paper the Cabinet Secretary for Finance and Local Government confirmed the commissioning of a comprehensive review of the community and town council sector. While there may be implications for community council arrangements, the Commission understands the review will take around a year, reporting in the summer of 2018 and any changes following the review will be implemented following this after due consideration.

This guidance is therefore an important document for officers of principal councils and interested parties in the intervening period.

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

LOCAL DEMOCRACY AND BOUNDARY COMMISSION FOR WALES

GUIDANCE FOR PRINCIPAL COUNCILS ON THE REVIEW OF COMMUNITIES

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1. INTRODUCTION

- 1.1 This new and updated Community Review Guidance document has been produced to assist and help to ensure consistency in the conduct of Community Reviews by principal councils. It has been produced to explain the statutory processes that should be followed, reflects best practice developed by councils over time and, the considerations a council may wish to consider in the course of conducting a review.

Communities

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

Community Reviews

- 1.4 From time to time, because of developments or shifts of population, there may be a need to make changes to the community areas. Such changes may involve changes to the boundary of the community and, where a community council exists, changes to the community council electoral arrangements. The legislation that covers community reviews is the Local Government (Democracy) (Wales) Act 2013 (the Act).
- 1.5 Under the Act the Local Democracy and Boundary Commission for Wales (the Commission) has a general duty to monitor arrangements for local government across Wales. Each principal council however has a duty to monitor the communities in its area and, where appropriate, the electoral arrangements of such communities for the purposes of considering whether to make or recommend changes. These changes are brought about by means of a community review. Both the Commission and the principal councils, when carrying out their duties, are required by the Act to seek to ensure effective and convenient local government. A community review conducted by the council is brought into effect by an Order by the Commission.

- 1.6 The Statutory process for conducting a community review is set out in Sections 23, 25, 31 and 33 – 36 of the Act. These set out the basic criteria for conducting a review, the appropriate considerations and the procedure.
- 1.7 When conducting a community review the Commission's guidance proposes for principal councils to conduct a community review in accordance with both Section 25 – Review of community boundaries by principal council – and Section 31 – Review of electoral arrangements for community by principal council – combined. Whilst two separate processes in the Act, we do not believe it is appropriate to consider the boundaries of communities without, simultaneously, considering their internal electoral arrangements, where appropriate. All references to community reviews in this guidance document should be viewed in this light.

2. COMMUNITY REVIEW BEST PRACTICE GUIDE

- 2.1 Over the course of conducting community reviews since the Local Government Act 1972, a process of best practice has evolved over time. This is not to say that every council across Wales has utilised this best practice but many do, and this has been published in handbooks published by the Association of Electoral Administrators.
- 2.2 When conducting a community review a principal council should also consider its other statutory obligations related to the review. For example obligations under the Wellbeing of Future Generations Act 2015, Welsh Language Standards and the Equality Act 2010, will all influence and inform the conduct and decisions made during the course of a community review.
- 2.3 In this guidance document the Commission will set out both the statutory and best practices of councils who have conducted community reviews in Wales. As an aid the Commission has produced a flow chart at Appendix 1 that sets out the best practice process.

Review Planning and Commencement

- 2.4 There are three key ways in which a community review is precipitated:
 1. In preparation for the programme of Commission electoral reviews;
 2. A request for a review from a Community or Town council or a Community Meeting (where no council exists); and,
 3. A Ministerial Direction.
- 2.5 Principal councils have a duty to report to the Commission on their community arrangements every ten years. The Commission is also required to conduct electoral reviews of principal councils every ten years. In the publication of the Commission's programme, we provide an indicative timetable of when a principal council may wish to consider conducting a community review. Ideally a community review should precede an electoral review, as the community and community wards are utilised as the primary building blocks for the electoral

wards. Whilst there is now power for the Commission to make changes to community and community wards *as a consequence* of proposing electoral wards, the Commission is of the view that, in general, such changes would best be made during a community review.

- 2.6 If a principal council receives a request from a town or community council, or receives a request from 30 or more members of the public who organise a community meeting in an area, it may also consider whether it is appropriate to conduct a review in a specific area or for the whole county. If the Council considers that it does wish to conduct a review, it should consult with the Commission to ensure that they have sufficient time to make an Order and that it would not have an adverse impact on the work the Commission has programmed.
- 2.7 If a principal council is Directed to conduct a review by Welsh Ministers it should do so in accordance with that Direction, utilising this guidance where applicable. A Ministerial Direction will have been consulted on and the representations of the principal council and the Commission will have been considered in the creation of the final Direction.

Not conducting a Review

- 2.8 It is the expectation of the legislation that a council conducts a community review every ten years. If a principal council has decided it will not conduct a community review it needs to communicate the reasons for not conducting a review clearly to the Commission, mandatory stakeholders and any interested parties. A report should be submitted to the Commission setting out the process it has gone through, the considerations and reasoning behind not conducting a review.
- 2.9 The Commission may, after reviewing the evidence and existing arrangements, not concur with the council's conclusions and challenge them on their decision. It is possible that the Commission could conduct its own review and charge the council for conducting the review. If the Commission does conduct a review, recommendations will be submitted to Welsh Ministers who would then make an Order.
- 2.10 It is for this reason that it is essential that the council engages and communicates with the Commission at the earliest opportunity to discuss a potential review.

Conducting a Review – Preparation

- 2.11 Once a council has decided it will conduct a community review there are three streams of activity: Preparation of Terms of Reference (ToR), research into the existing arrangements and the activities for the Council / Scrutiny committee overseeing the review for the council.

Terms of Reference

- 2.12 Whilst not a requirement of the Act, it has become common practice for principal councils to develop, consult on and then publish ToR for a community review.
- 2.13 The ToR should establish the timetable and procedures, provide guidance and set out the issues that will be considered during the course of the review. Provision of a ToR allows the Council to ensure that they are seen to be following a set procedure and appropriate considerations for a review and allows interested parties to understand how to effectively engage in the review. It also provides the Commission with information as to whether the council has appropriately conducted the review under the terms of the Act and has met their own expectations when submitting proposals to the Commission.
- 2.14 Examples of provisions within a ToR to be considered by a principal council are, but not limited to:
- An indicative timetable for the review
 - The procedures the council will follow
 - Considerations during the review
 - Non-Statutory:
 - Suitability of existing boundaries
 - Recognition of rural / urban divides
 - A Council Size Policy (see 2.18 below)
 - The Commission's proposed council size aim at the next electoral review.
 - Grouping of communities
 - Amalgamation of communities
 - Statutory:
 - Easily identifiable boundaries
 - Not breaking community ties
 - Whether a community or town be warded (or de-warded)
 - If warded, the number of councillors per ward.
 - Naming of communities and/or their wards.
 - Consequential arrangements of any changes proposed
- 2.15 The principal council may wish to informally consult with the Commission or colleagues from other principal councils in the drafting of the ToR. The principal council may also wish to consult with the Welsh Language Commissioner when considering Welsh language community or community ward names as part of the community review process.
- 2.16 Once a draft ToR has been agreed by the relevant council authority, it is good practice to consult on this draft in order to ascertain the views of interested parties. This should be provided, at a minimum, to the mandatory consultees¹ and should last for 6 to 12 weeks.

¹ "mandatory consultees" are set out in Section 34(3) of the Act : any local authority affected by the review; the police and crime commissioners for the area; the Commission; any organisation representing the staff employed by local authorities which has asked to be consulted; and, such persons that may be specified by order made by Welsh Ministers.

2.17 Once the consultation has ended, the representations received should be considered and a final ToR be produced for approval by the principal council. Once the ToR is approved, the Council will be in a position to begin the review.

Council Size Policy

2.18 Whilst not a requirement of the Act, it has become common practice for principal councils to develop, consult on and then publish a Council Size Policy. This is ordinarily included within a ToR.

2.19 The Council Size Policy creates a mechanism to determine, for the principal area's community and town councils, the appropriate number of community councillors for a given town or community based on the electorate of the community or town council. It should ensure that representation on a community or town council is, as far as is practicable, the same across all the community councils within the principal area.

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

- An approximate councillor allocation per electorate
- Provision of an overall minimum and maximum number of community councillors for a community council. Historically the minimum number of councillors for a community council has been 7, but some councils have used 6. The largest community council in Wales at present is 24. The maximum size may be dependent on the factors below.
- What are the existing community council sizes
- The scale of the activity of the community councils in a principal council area.
- The geography of the principal council area
- How sparsely or densely populated a principal council area is; or is it mixed.

2.21 Each principal council should determine its own policy, based on its own considerations. It may be that it wishes to discuss the modelling with the Commission or other principal councils.

Amalgamation and Grouping of Communities

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

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

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- 2.24 In such circumstances consideration may be given to either grouping or amalgamating the existing community or town councils to provide that capacity.
- 2.25 Where a principal council wishes to apply such a model across its principal area it should consider setting out a Community Amalgamation / Grouping Policy. This policy should set out maximum and minimum sizes of the groups and any factors it is taking into consideration when creating group communities.

Amalgamation

- 2.26 The amalgamation of communities would be the joining of two or more existing communities together to form one, new, larger community. The existing community councils are dissolved and a new separate community area and council are established. Consideration, as with all communities, should be given to the warding of that new community. The Commission would expect the wards of the new community to, at least, reflect the former communities that have been amalgamated.

Grouping

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

The Initial Consultation

- 2.28 The Act sets out the procedure for a review in Chapter 4. Specifically, in Section 35(1) of the Act it stipulates that the reviewing body must consult the mandatory consultees and conduct such investigations as it thinks appropriate.
- 2.29 The Act does not stipulate how long this consultation should be. It is considered best practice to allow 12 weeks for such a consultation. This should allow interested parties, particularly the town and community councils to consider their arrangements and make representations to the principal council.
- 2.30 It is during this period that a council should consider the views of those who make representations but should also consider all of their current arrangements and whether they are appropriate or not. A change does not have to be precipitated by representations as long as the council is acting within its prescribed policies (as set out in the ToR) and the confines of the Act.

Identifying Potential Changes

- 2.31 In order to discharge its duties under the Act, the principal council should maintain a mechanism to identify potential changes. This may be achieved by a combination of periodic consultation with the community councils and ongoing consideration of community boundaries and electoral arrangements when considering issues such as planning (including the preparation of development plans) and electoral administration.
- 2.32 During the initial consultation period officers responsible for the review should consider each community area boundary and if they are still appropriate. Examples of common issues that can arise are (but not limited to): new developments or extensions of existing developments straddling communities; anomalies not identified in previous reviews (for example, golf courses split across two communities or areas where a small road or cul-de-sac is 'split off' from the rest of their community); and, changes to water courses or farms.

Changes to Community Boundaries (Section 25)

- 2.33 Changes may be proposed to community boundaries. Proposed new boundaries should wherever possible follow features that can be identified both on detailed maps and on the ground. Proposals may also be made to abolish a community, constitute a new community, amalgamating communities or establishing or adding to a group community.

Changes to Community Electoral Arrangements (Section 31)

- 2.34 Changes may be proposed to the electoral arrangements of a community². In making proposals for changes to community electoral arrangements regard is to be had to any change in the number and distribution of local government electors of the community which is likely to take place within the period of five years immediately following any recommendations. The Act also requires account to be taken of any discrepancy between the number of local government electors and number of persons that are eligible to be local government electors (as indicated by relevant official statistics). Such proposals should take into account the Council Size Policy.
- 2.35 Where community area has, or will have, a community or town council, consideration should be made to whether it should be warded. In considering whether a community should be divided into community wards, regard should be had to whether the number or distribution of the local government electors for the community is such as to make a single election of community councillors impractical or inconvenient and whether it is desirable that any area of the community should be separately represented on the community council.

² The electoral arrangements of a community are defined in the Act as:

- (a) the number of members of the council for the community;
- (b) its division into wards (if appropriate) for the purposes of the election of councillors;
- (c) the number and boundaries of any wards;
- (d) the number of members to be elected for any ward;
- (e) the name of any ward.

Regard is also to be had to the desirability of fixing boundaries which are and will remain easily identifiable and any local ties which will be broken by the fixing of any particular boundaries.

2.36 Where a community council is already warded those ward boundaries should be considered in the same way as changes to community boundaries, taking into account the potential changes identified (see 2.31) and the ToR. Where making changes to the wards, account should be taken to the consequential representation of the wards within the community.

Consequential Changes of any Proposals

2.37 When proposing changes to communities and their wards, the principal council needs to consider consequential changes that may need to be made to the electoral arrangements of the principal area³. The communities and their wards are the building blocks of electoral wards. Where a change is proposed to one of these 'shared' boundaries it is normal practice to also propose a consequential change to the arrangements for a principal council electoral ward. Ordinarily, if a minor change is proposed consideration will be limited to a simple shift of the boundary. However, if significant changes are made the council will need to consider the appropriate consequential arrangements, including the creation of new electoral wards and the number of members representing the new or significantly changed wards. These should be proposed at the same time as any change to communities and their wards, if appropriate.

Complex or Challenging Areas

2.38 On occasion difficult decisions may have to be confronted by officers and the principal council where arrangements, although popular with local residents, may not be appropriate. In these areas innovative solutions may need to be sought. Alternatively, it may be necessary to make a robust evidence based case in making proposals that are most appropriate for an area in the face of strong or considerable opposition. The Commission will endeavour to provide any informal advice it can in these instances or offer differing options for the Council to consider. Decision making in these areas needs to be clear and evidence based.

Draft Proposals

2.39 Once the initial consultation has completed, the representations received should be considered with the changes identified by the officers and a report should be produced for the approval of the principal council. Once approved the council should prepare a draft proposals report for publication and consultation.

³ The electoral arrangements of a principal area are defined in the Act as:

- (a) the number of members of the council for the principal area,
- (b) the number, type and boundaries of the electoral wards into which the principal area is for the time being divided for the purpose of the election of members,
- (c) the number of members to be elected for any electoral ward in the principal area, and
- (d) the name of any electoral ward.

- 2.40 The Draft Proposals Report must contain details of the review and any proposals for change that the principal council considers appropriate or, if it does not consider any change appropriate, a proposal to that effect. The draft proposals are published in order to ensure adequate consultation in accordance with Chapter 4 of the Act.
- 2.41 Notice must be given of the consultation one week before it commences. The notification can be by means of letter and email, notices placed on principal council and community council notice-boards, the principal council and community council websites, social media and by any other means that the principal council considers appropriate. It is good practice for the notification to include details of the draft proposals and maps (or details of how and where to access maps) and would ask the community councils and all interested parties, including the general public, to make comments on the draft proposals.
- 2.42 A period of 12 weeks is normally allowed for consultation⁴ on the draft proposals. The Draft Proposals Report must be published electronically and must be available for inspection (without charge) at the offices of the principal council for the duration of the period for representations. The report must also be sent to Welsh Ministers and mandatory consultees and all others who responded at the preliminary stage must be informed how to obtain a copy of the report.
- 2.43 In addition, some principal councils have undertaken road shows, meeting each community in their area discussing the proposals and encouraging representations which support or oppose proposals, or offer alternative suggestions.
- 2.44 As noted at paragraph 2.38, on occasion difficult decisions may have to be confronted by officers and the principal council where arrangements, although popular with local residents, may not be appropriate. Decision making in these areas needs to be clear and evidence based. If the status quo is maintained the evidence for the decisions made must be robust when providing its report to the Commission.
- 2.45 At the end of the consultation period the comments on the draft proposals and all evidence collected to that point is considered and final proposals drawn up. The final proposals are then adopted by the principal council by means of the appropriate mechanism.

Final Proposals

- 2.46 The report of the review (known as the Final Proposals Report) must contain any proposals for change that the principal council considers appropriate or, if it does not consider any change appropriate, a proposal to that effect. The report must also contain details of the review and the consultation carried out on

⁴ The Act states that the period for representations should be a period of not less than 6, nor more than 12, weeks beginning no earlier than one week after the notice period is given.

proposals and details of any changes to the proposals made in the light of representations received and an explanation of why those changes have been made.

2.47 The Final Proposals Report is submitted to the Commission. The principal council should also publish the final proposals in the same way as the draft proposals (see 2.42 and 2.43 above). The Final Proposals Report must be made available for inspection (without charge) at the offices of the principal council for at least 6 weeks following publication. A copy of the Final Proposals Report must be sent to the mandatory consultees, Ordnance Survey and the Welsh Ministers and all others who responded at the earlier stages must be informed how to obtain a copy of the report.

3. THE COMMISSION'S ROLE

3.1 Where the principal council has carried out a Community Review and has submitted its report containing its final proposals (including consequential changes to principal council electoral arrangements) to the Commission, the Commission, after a period of 6 weeks, will consider the proposals and may make an Order implementing the proposals. During this six week period the Commission may accept representations on the councils proposals for its consideration.

3.2 On receipt of the proposals the Commission will request for copies of information pertinent to the review to satisfy that the council has conducted the review in accordance with Part 3 of the Act. This will include, but not restricted to, copies of every representation received, the reports to the relevant scrutiny committee and full council and the minutes of those meetings.

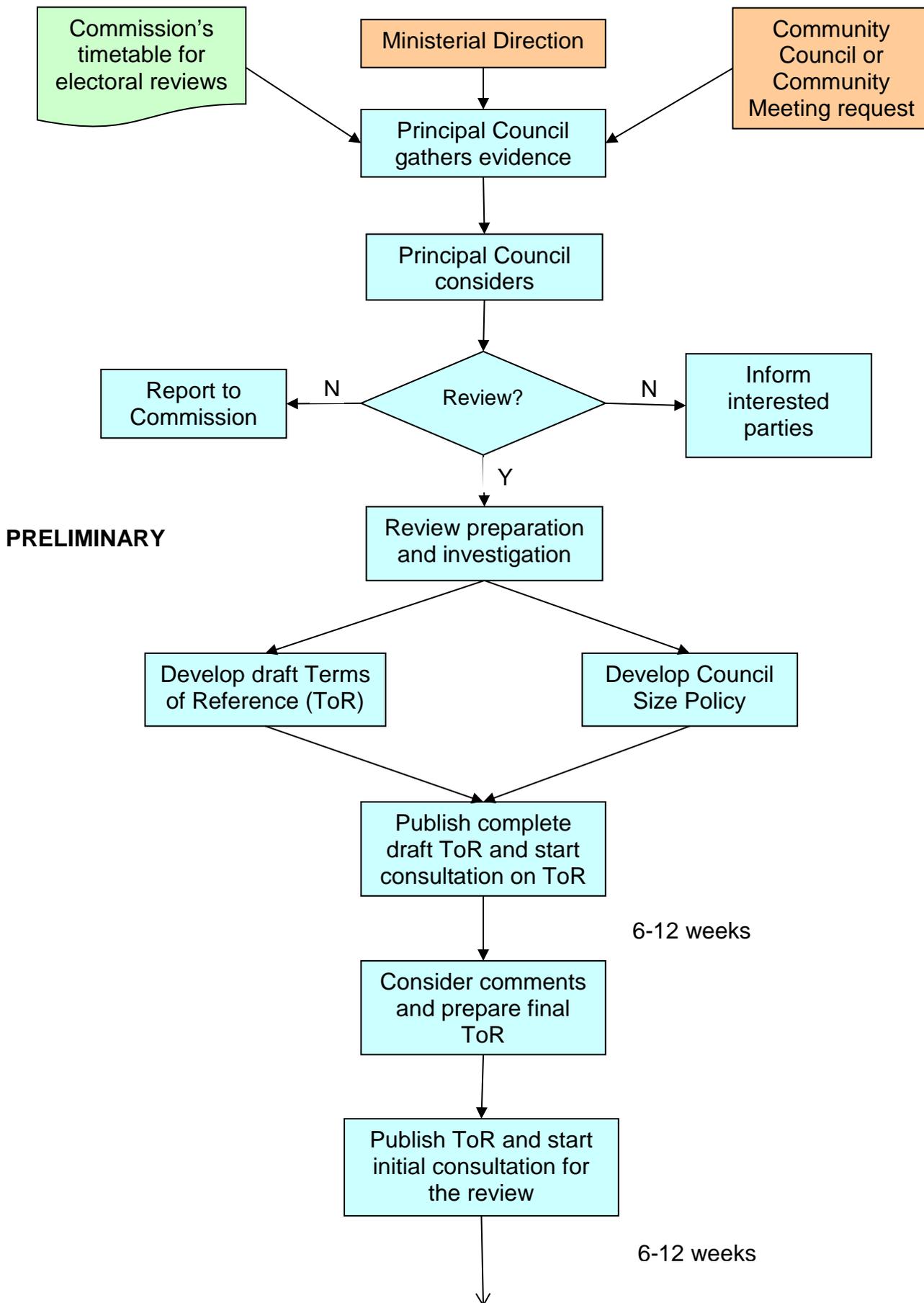
3.3 Once satisfied the correct process has been undertaken, it will consider the details of the proposals made to the Commission. The Commission may implement the proposals of the principal council without change or, with the agreement of the principal council, may make changes to the proposals. Where the proposals contain changes to the electoral arrangements of the principal council the Commission must first seek the consent of Welsh Ministers before making the Order.

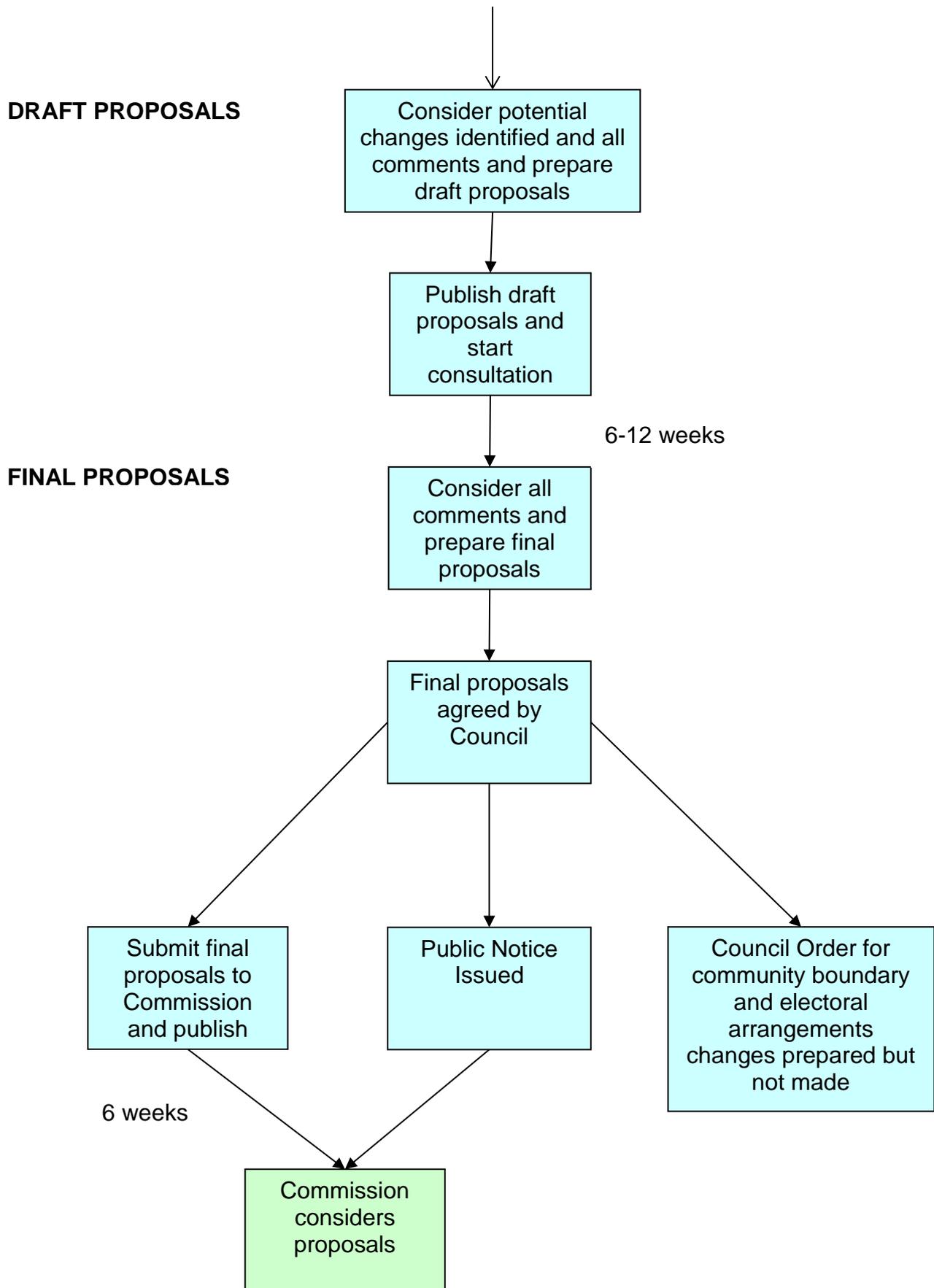
3.4 Under certain circumstances the Commission may decide to conduct its own review. These circumstances are where the Commission is unable to agree changes to the proposals with the principal council or it does not consider it appropriate to implement any of the changes proposed by the principal council or it considers that the review has been defective in some way. Where the Commission conducts a community review it makes its proposals to the Welsh Ministers who may make an Order implementing them. It is hoped that by maintaining an open relationship between the Commission and principal council, where the Commission is kept informed throughout a review, that such circumstances can be avoided.

Community Electoral Arrangements

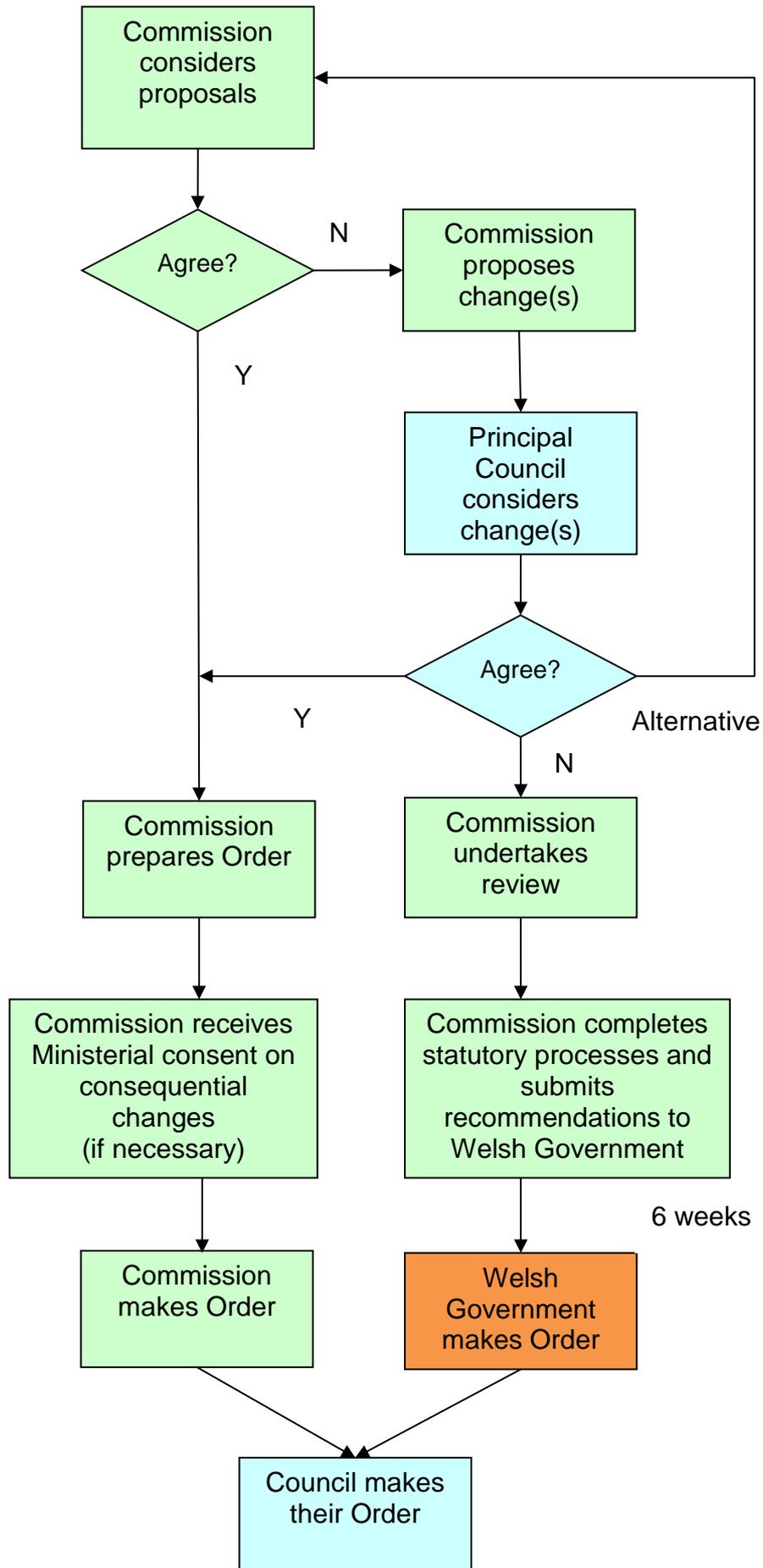
- 3.5 Where the principal council has made a report proposing changes to a community boundary *and* its community electoral arrangements the Commission will make an Order implementing all of the changes in one Order. Where, as a result of the changes, the proposal also includes consequential changes to the principal council electoral arrangements, the Commission will also seek the consent of Welsh Ministers before making the Order. This simplifies the Order making process, reduces the burden on the principal council and allows changes to happen in one place.
- 3.6 Where the principal council has made a report proposing changes to community electoral arrangements but not to the external community boundary of a community then, after a period of six weeks, the principal council *may* make an Order implementing the changes. Where, as a result of changes to the community electoral arrangements, the council makes proposals for consequential changes to the principal council electoral arrangements, the council must first seek the consent of Welsh Ministers before making the Order.
- 3.7 The Commission requests that an Order be prepared after six weeks but is not made in Council until after the Commission has completed its work and is preparing its own Order, or the Welsh Government is preparing an Order. The Commission is of the view that it would not be appropriate to make changes to community electoral arrangements before the Commission has completed its duties.
- 3.8 Any Order made by the principal council needs to be sent to Welsh Government, Ordnance Survey, the Commission and any body affected by the changes.
- 3.9 The changes made in the Orders by the Commission, principal council and Welsh Government will ordinarily come into force and the first ordinary council election following the date the Order is made.

Community Review Process – Best Practice





FINAL STEPS



APPENDIX 2 – GLOSSARY OF TERMS

Commission	The Local Democracy and Boundary Commission for Wales.
Community (area)	The unit of local government that lies below the level of the principal council
Community Council	An elected council that provides services to their particular community area. A community council may be divided for community electoral purposes into community wards.
Community / Town ward	An area within a community council created for community electoral purposes.
Directions	Directions issued by Welsh Ministers under Section 48 of the Act.
Electoral wards	The areas into which principal areas are divided for the purpose of electing county councillors, previously referred to as electoral divisions.
Electoral review	A review in which the Commission considers the electoral arrangements for a principal council.
Electorate	The number of persons registered to vote in a local government area.
Interested party	Person or body who has an interest in the outcome of a community review such as a community council, local MP or AM or political party.
Order	Order made by an implementing body, giving effect to proposals made by the principal council or the Commission.
Principal area	The area governed by a principal council: in Wales a county or county borough
Principal council	The single tier organ of local government, responsible for all or almost all local government functions within its area. A county or county borough council.
Projected electorate	The five-year forecast of the electorate
The Act	The Local Government (Democracy) (Wales) Act 2013
Town Council	A community council with the status of a town are known as town councils. A town council may be divided for community electoral purposes into wards.