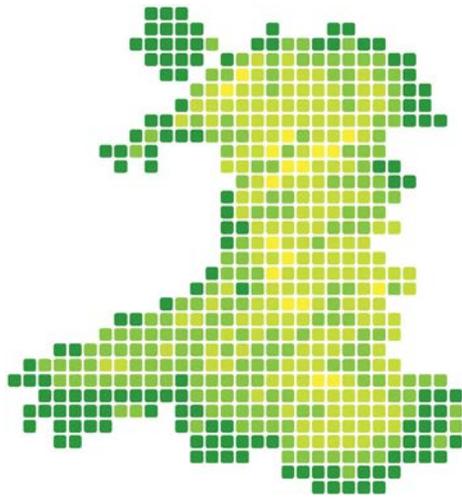


LOCAL DEMOCRACY AND BOUNDARY COMMISSION FOR WALES



Comisiwn Ffiniau a
Democratiaeth Leol
Cymru



Local Democracy and
Boundary Commission
For Wales

**SEAWARD BOUNDARY REVIEWS:
POLICY AND PRACTICE 2017**

FOREWORD

This is our Seaward Boundary Reviews: Policy and Practice document that has been created in anticipation of new energy projects in Welsh territorial waters which necessitates the changing of seaward boundaries to bring them into principal council areas.

The Commission has produced this booklet which affirms the procedures and methodology we have adopted in respect of seaward boundary reviews the Commission conducts.

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Introduction

- 1 The Commission, in order to make recommendations to Welsh Ministers, may carry out reviews of the seaward boundaries of principal areas in response to a direction from Welsh Ministers or by its own volition. The way the Commission conducts a review is defined by legislation and may be guided by directions issued by Welsh Ministers.
- 2 The Commission is aware that a number of energy projects are planned that may require the boundaries of principal areas to be extended into the sea in order to provide for the necessary planning procedures. The Commission believes it to be useful to set out the way in which it intends to conduct any future reviews.
- 3 The Commission wishes to be clear from the outset that whilst the Commission is likely to be extending principal area boundaries into the sea in response to proposed developments, these reviews are, in no way, an endorsement for those projects. The Commission's role is simply the extension of boundaries into the sea to facilitate a principal authority's power of consideration of proposals.
- 4 This Seaward Boundary Reviews: Policy and Practice document sets out the Commission's policies and procedures that will be applied in order to meet the obligations as set out in legislation.

Statutory Requirements

The Local Government (Democracy) (Wales) Act 2013

- 5 The provisions of the Local Government (Democracy) (Wales) Act 2013 (the Act) in respect of local government reviews, including seaward boundary reviews, replace the provisions of earlier legislation.
- 6 Section 21(3) of the Act provides that the Commission in carrying out its duties must seek to ensure effective and convenient local government. This is the paramount and primary function of the Commission. One of the duties provided for by the Act is to conduct reviews of the seaward boundaries of principal areas.
- 7 Section 28 of the Act lays upon the Commission the duty to review seaward boundaries and the recommendations the Commission may make in that respect.

Considerations for a Review of Principal Area Seaward Boundaries

- 8 The Commission may, as described in Section 28(2) of the Act, recommend:
 - (a) The inclusion within the local government are [under review] of any area of the sea which, at the time of the review, does not form part of another local government area; and

- (b) The exclusion of any area of the sea which, at the time of the review, forms part of the local government area [under review].

Extent of Seaward Boundaries

9 Section 46 provides that

- (1) Any part of the sea-shore to the low water-mark forms part of the community or communities which it adjoins in proportion to the extent of the common boundary;
- (2) Every accretion from the sea (whether natural or artificial) forms part of the community or communities which is adjoins in proportion to the extent of the common boundary; and
- (3) Every accretion or part of the sea-shore forming a part of a community under this section also forms part of the principal area and preserved county in which the community is situated.

10 In effect, this means the Commission will be extending the community area boundaries into the sea as part of a review under this section. As a consequence the principal council and preserved council boundaries would change.

Considerations

- 11 When conducting a seaward boundary review, the Commission wishes to be clear from the outset that the Commission is considering the extending of community area boundaries into the sea and the appropriate placement of them.
- 12 The Commission is not considering the appropriateness or merits of any development which has precipitated the review. The recommendations the Commission makes are also, in no way, an endorsement for any developments.

Procedure

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13 The procedure for conducting local government reviews, including seaward boundary reviews, is set out in Chapter 4 of the Act.

Pre-review Procedure

- 14 Before conducting a review the Commission is required to take such steps as it considers appropriate to bring the review to the attention of the mandatory consultees and any other person it considers likely to be interested in the review. If any directions are given by Welsh Ministers then the Commission is also required to make the mandatory consultees and such other interested persons aware of these.
- 15 In respect of seaward boundary reviews Section 34(3) of the Act defines 'mandatory consultees' as:

- any local authority affected by the review;
 - any organisation representing the staff employed by local authorities which has asked to be consulted; and
 - such other persons as may be specified by order made by the Welsh Ministers.
- 16 Approximately three months prior to the planned start of a review Commission officials will meet with officers of the council under review. This meeting will set out the general practices and procedures of the review. Commission officials will discuss what the expectations of the Commission are for the review, how we intend to undertake consultation and how we expect the council to support the review, in terms of providing information, making proposals and in relation to publicising the review.
- 17 It will be for the principal council to decide which of their officers attend this meeting. However, the Commission recommends that the council consider the following officers (or their equivalents) attending: The Chief Executive Officer (or equivalent), the Electoral Services Officer, a legal services representative and a planning officer. The Commission consider that these officers will all have a different role to play in ensuring the review is conducted efficiently and effectively with a greater likelihood of a successful review outcome.
- 18 At the official start of the review the Commission will write to the principal council under review, all the community councils in the area, the Members of Parliament and Assembly Members for the local constituencies and other interested parties to inform them of its intention to conduct the review, to request their preliminary views. This period will last approximately 4 weeks. The Commission will also issue press releases about the review. The Commission will also provide publicity material that it will request both the principal council and town and community councils distribute in appropriate places, such as public libraries, town and community notice boards, websites and council newsletters etc.

Draft Proposals

- 19 Following the period of consultation, the Commission consider the representations it has received and will publish draft proposals for consultation. The consultation period will last between 6 and 12 weeks, ordinarily 9 weeks. The Commission will write to the principal council under review, all the community councils in the area, the Members of Parliament and Assembly Members for the local constituencies and other interested parties to inform them of the draft proposals, to request their views. The Commission will also issue press releases about the proposals. The Commission will also provide publicity material that it will request both the principal council and town and community councils distribute in appropriate places, such as public libraries, town and community notice boards, websites and council newsletters etc.

Final Proposals

- 20 Following the period of consultation, the Commission will consider the representations it has received and publish Final Recommendations and submit them to Welsh Government. The Commission will write to the principal council under review, all the community councils in the area, the Members of Parliament and Assembly Members for the local constituencies and other interested parties to inform them of its submission of recommendations to Welsh Government. The Commission will also issue press releases about the recommendations. The Commission will also provide publicity material that it will request both the principal council and town and community councils distribute in appropriate places, such as public libraries, town and community notice boards, websites and council newsletters etc.
- 21 There is no further period of consultation with the Commission.
- 22 It is then for Welsh Government to decide how it wishes to proceed on the recommendations. Ordinarily, after a period of at least 6 weeks, an Order would be made, which may contain minor modifications.

The considerations to be made during a seaward boundary review

- 23 Typically, reviews present a range of issues and challenges which require a judgement on balance, taking into account matters, in addition to statutory requirements, that include the following:
- effective and convenient local government;
 - the extent of specific development proposals;
 - a buffer zone; and,
 - representations.
- 24 The Commission will take into account all of these factors when making recommendations and invite respondents to consider each of these when submitting schemes and commenting on the draft proposals.

Effective and convenient local government

- 25 It is a duty of the Commission to recommend to achieve effective and convenient local government for principal councils.
- 26 In seeking to ensure effective and convenient local government, the Commission, when considering proposed seaward boundaries, ensures that the extent of an authorities seaward boundaries is such that it can consider developments in its remit.

Extent of Specific Development Proposals

- 27 The Commission are likely to have begun a seaward boundary review in light of specific development proposals published or provided to the Commission. It is essential that these are followed to ensure that an authority has the appropriate seaward boundary to consider any developments.

Buffer Zone

- 28 The Commission believes that it is prudent to propose a 'buffer zone' around a proposal to allow for alterations to development proposals during the planning process, or if an issue is encountered in the delivery of a development.
- 29 In order to allow for this, and to ensure further seaward boundary reviews are not required, the Commission will propose a boundary which exceeds the planned development by a specific amount. This amount will initially be set either in response to representations or at a level appropriate to the development.
- 30 The Commission will consult on the extent of the buffer zone during the draft proposals phase.

Representations

- 31 The Commission encourages principal councils, town and community councils, members, interested parties and the general public to make representations and suggestions as part of the process of review. The Commission welcomes representations that are based on evidence and facts which are relevant to the proposals under consideration.
- 32 The Commission will not consider representations, or parts of representations, which support or object to the proposed developments themselves. As described at paragraphs 3, 11 and 12, the Commission's review is not concerned with the merits, or not, of a proposed development. The Commission's role is simply the extension of boundaries into the sea to facilitate a principal authority's power of consideration of proposals.
- 33 The Commission will consider, acknowledge and summarise every representation made. If any person or body makes a representation to the Commission and do not receive an acknowledgment, they should contact the Commission to ensure it has received the representation. If your representation is not acknowledged then it is highly likely the Commission has not received the representation and it will not be considered in the Commission's deliberations.
- 34 A summary of every representation the Commission receives is published in an appendix in the Commission's Draft Proposals and Final Proposals Reports. The Commission has a policy that members of the public will not be named in the summaries of representations that will be published in the reports. The Commission will ascribe the locale of their residence to the representation summary.

Conclusion

- 35 A seaward boundary review is an exercise of the discharge of statutory responsibility, the application of powers given to the Commission, and the display of judgement which the legislation calls for. The Commission's policies are intended to give others confidence in how it will approach the challenges in any review, but do not preclude its

striking of the right balance in the particular circumstances of the communities and principal council under review. The Commission exercises a collective judgment in determining the issues leading to the proposals in the reviews and the considerations given to the issues and the reasoning adopted will be explained in the reports.

January 2017

