
Petitions Scheme

Report by the Head of Democratic and Central Services

1. INTRODUCTION

- 1.1 The purpose of this report is to seek approval for a Petitions Scheme for the Council, which is a requirement of the Local Democracy, Economic Development and Construction Act 2009.

2. BACKGROUND

- 2.1 The Council already has in place procedures to deal with petitions which are outlined within the Council Procedure Rules. Additionally, there also exists a facility for electronic petitions to be submitted to the Council via the Modern.Gov Committee Management System. Whilst these provisions already exist, an Order has been made by the Secretary of State which intends to ensure that the handling of written and electronic petitions are dealt with in a more consistent and coherent way by local authorities.
- 2.2 The Order came into force on 15th June 2010 and requires changes to be made to the existing provisions within the Constitution with effect from the date. Normally this report would be considered first by the Corporate Governance Panel but the legislative requirement for a Scheme to be in place and the Council's Calendar of Meetings has meant that this has not been possible on this occasion. The Council will be required to approve the changes made to the Council Procedure Rules which are proposed in the Appendix attached to this report which are summarised below.

3. CHANGES

Petition Scheme

- 3.1 It is being proposed that the current procedures should now be referred to as a Petitions Scheme in order to meet the necessary legislative requirements. Both written and electronic petitions will qualify under this Scheme. Petitions made under any specific enactment, such as that calling for a referendum on the form of executive of the Council, will not be dealt with under this procedure.

Eligibility of Signatories to a Petition

- 3.2 The new requirements now allow those who study within the District, including those under 18, to present and/or sign a petition to the

District Council. At present, only those who live or work in the District are accepted as signatories.

Requirement to Specify the Number of Signatories Accepted

- 3.3 The 2009 Act requires the Council to identify a specified number of acceptable signatories to be included on a Petition Scheme to trigger a debate at Full Council meetings. Guidance issued by the Department for Communities and Local Government (DCLG) stipulates that this should not be greater than 5% of the local authority's total population. With a population of 167,700 (mid 2007 ONS), this would equate to 8,385 signatories.
- 3.4 The Council's current provisions require only 50 signatures to be obtained before a petition is presented to the Council. The Council then decides whether the petition should then be referred to the Cabinet, Committees, Panels or Advisory Groups of the Council for debate. It is suggested that the specified number for presenting petitions to the Council should remain at 50 signatories, given the fact that the number of qualifying petitions submitted to the Council over the past few years have been relatively low and have not attracted signatures from anywhere near as high as 1% of the District's total population. In the last 5 years, 4 petitions have been presented to the Council, with the highest number of signatories being 221. In the case of the number of signatories on a petition that would trigger a debate at Full Council, it is suggested that the specified number in this case should be 500 signatures. Guidance suggests that the thresholds should encourage petitions to be submitted to the Council and indicates that the Council can at any time review the Scheme.

Procedure for Debates at Full Council Meetings

- 3.5 As highlighted in the previous paragraphs, the 2009 Act now places a requirement for a petition to be debated at Full Council meetings, subject to it satisfying the necessary criteria. As with the current provisions, it is proposed that the petition organiser be given a period of up to 5 minutes in which to present the petition to the Council, followed by a further period of 5 minutes in which Councillors may question the person(s) presenting the petition. The Council will then be required to hold a debate on the subject matter which must conclude with a decision being made. If Full Council concludes that the Cabinet should be responsible for making the final decision (which would be the appropriate course of action if the petition relates to an executive function that is the responsibility of the Cabinet), Full Council must determine whether to make recommendations to inform the Cabinet's decision on the petition.
- 3.6 Guidance issued by DCLG suggests that the length of the debate at Full Council meetings should be restricted to 15 minutes. It is proposed that this time should be included within the Council's Petition Scheme. Overall, consideration of a petition therefore should not take longer than 25 minutes in total.

Eligibility Criteria and Exclusions

- 3.7 The Council's current rules state that petitions will not be accepted if they are abusive or libellous. It is proposed that this should be changed to align with the wording in the Act which indicates that petitions considered to be "vexatious, abusive or otherwise inappropriate" will not be accepted.
- 3.8 The legislation stipulates that the following should be excluded from the Council's Petition Scheme:-
- (a) any matter relating to a planning decision;
 - (b) any matter relating to a licensing decision;
 - (c) any other matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment.
- 3.9 The new provisions now enable petitions concerning the terms and conditions of employment of staff to be submitted to the Council. The current provision indicates that such matters should be dealt with through the existing procedure of the Employee Liaison Advisory Group. The Scheme needs to be amended to reflect this change.

Requirement to Acknowledge Petitions

- 3.10 The current provisions state that petitions should be delivered to the office of the Chief Executive no later than noon on the eighth clear working day before the meeting at which it is to be considered. The model Scheme provided within the guidance issued by DCLG suggests that this should be extended to ten clear working days to enable sufficient time to determine what steps are to be taken by the Council and whether it qualifies for acceptance as an item on the Council agenda. In the case of any petition being refused by the Council, the reasons for refusal must be made clear to the Petition Organiser when the acknowledgement of the petition is sent.
- 3.11 Under the current arrangements, the Council does not define a period during which petitions should be acknowledged in terms of their receipt. The 2009 Act however, places a requirement upon local authorities to specify a timescale and DCLG's guidance suggests that authorities should send an acknowledgement to the Petition Organiser within ten clear working days of receipt. This will also apply to e-petitions submitted through the Council's website via the Modern.Gov Committee Management System.

Requirement to Take Steps in Response to a Petition

- 3.12 The 2009 Act prescribes that the Council must take one or more steps in response to a petition which may include the following:-
- (a) giving effect to the request in the petition;

- (b) considering the petition at a meeting of the Council;
- (c) holding an inquiry into the matter;
- (d) commissioning research into the matter;
- (e) holding a public meeting;
- (f) holding a consultation event;
- (g) holding a meeting with petitioners;
- (h) referring the petition for consideration to one of the Council's Overview and Scrutiny Panels; and/or
- (i) providing a written response to the petition organiser setting out the Council's views about the request in the petition.

In order to satisfy the necessary legal requirements, these steps will need to be incorporated within the Scheme.

Requirement to Call an Officer to Account

- 3.13 One of the more significant changes is the opportunity to now call Officers to account at a public meeting of an Overview and Scrutiny Panel provided that the nature of the petition relates to the discharge of functions for which that Officer is responsible. Officers who can be called to account include the Chief Executive, Directors and Heads of Service. At present, the current arrangements provide that petitions which relate to operational matters shall not be considered by the Council and are instead submitted to the Director responsible for that service.
- 3.14 Upon the petition being referred to an Overview and Scrutiny Panel, the relevant Officer will be required to attend that meeting to answer before it. The Overview and Scrutiny Panel may use its powers to determine whether any other appropriate Officer should be called before the Panel and to extend this invitation to the relevant Executive Member. When calling the Officer to account, the Overview and Scrutiny Panel will be required to produce a report and/or recommendations about what should be done to address the matter. This may include conducting an investigation, making recommendations to the Cabinet, Committees, Panels, Advisory Groups, etc of the Council or even referring the matter to a meeting of the Full Council. A copy should be sent to the Petition Organiser, and where appropriate, be published on the Council's website.
- 3.15 Guidance suggests that the specified number of signatories required for an Officer to be held to account can be different to that which triggers a debate at Full Council meetings and those which are presented to the Council. It is suggested however that the specified number of signatories in this case should remain at 500.

Petition Organiser – Absence from Meeting

- 3.16 Petitions will still be considered even if the Petition Organiser, or his/her nominee, indicates that they are unable to present the petition at the meeting of the Council or its Cabinet, Committees, Panels, Advisory Groups etc. In any such case, whether or not the Petition Organiser is absent from the meeting, written confirmation of the decision will be submitted to the Petition Organiser within ten clear working days of the meeting, and where appropriate, be published on the Council's website.

Existing Scheme - Procedure for On-Line Petitions

- 3.17 As the 2009 Act requires both written and electronic petitions to be handled in a more consistent way, it is proposed that the reference in the current procedure in respect of the way in which on-line petitions not having the requisite number of signatories are dealt with should be deleted from the scheme. If concerned residents so wish they can approach their local Ward Member as an alternative to raise an issue as an item at the relevant Overview and Scrutiny Panel under the provisions of the Councillor Call for Action procedure.

- 3.18 At present, those who submit an e-petition determine the length of time that an e-petition should remain open, which is usually 8 weeks. Guidance suggests that it should be restricted to a specified timescale. Whilst DCLG's guidance suggests that this should be 12 months, The Consultation Institute (an organisation which has been set up to assist authorities in public, stakeholder and employee consultation) suggests that this should be 90 days. The latter is therefore being proposed for inclusion within the Petition Scheme.

Review of Steps Taken by the Authority

- 3.19 The new provisions now enable the Petition Organiser to request a review of the adequacy of the steps taken or being proposed to be taken in response to the petition, provided that the request is submitted within twenty clear working days of the Petition Organiser receiving written notification of the Council's decision. This review must be undertaken by the relevant Overview and Scrutiny Panel who shall determine whether the steps were adequate. The Overview and Scrutiny Panel can use any of its powers to deal with the request. This includes undertaking investigations, making recommendations to the Cabinet or other Committees, Panels, Advisory Groups of the Council or referring the matter to a meeting of the Full Council.
- 3.20 In a case where a petition was initially referred to an Overview and Scrutiny Panel by the Council or if it was a petition requesting an Officer to be held to account, then the review will be undertaken by a different Overview and Scrutiny Panel of the Council to ensure that the review is undertaken by another body.
- 3.21 The same procedures in respect of acknowledging requests for a review will apply, whereby an acknowledgement must be sent to the

Petition Organiser within ten clear working days of receipt. As above, the Petition Organiser will be given 5 minutes in which to present the request to the Overview and Scrutiny Panel, stating the reasons why it is his/her belief that the Council's response is not considered adequate. This will then be followed by a further period of 5 minutes in which Councillors may question the person(s) presenting the request. There is no requirement to stipulate a specified time for the Overview and Scrutiny Panel to discuss the review.

- 3.22 The Council is required to inform the Petition Organiser of the results of the review and, provided it is appropriate, publish those results on the Council's website. In the absence of the Petition Organiser, or his/her nominee, being unable to present the request for a review at the Overview and Scrutiny Panel meeting, written confirmation of the decision will be submitted to the Petition Organiser within ten clear working days of the meeting, and where appropriate, be published on the Council's website.

Handling Petitions Submitted to the Council which are not the Responsibility of the Council

- 3.23 The 2009 Act indicates that the Council's Petition Scheme might include provisions that indicate how a petition would be handled if it concerns a matter that the authority does not have direct control over, if it relates to the functions of another local authority or if it concerns a matter which is delivered in partnership with any of the Council's partner organisations. Should this be the case, it is suggested that the steps to be undertaken should be determined by the Director of Central Services which may include the following:-

- (a) making representations on behalf of the petition signatories to the relevant body;
- (b) referring the petition to the local strategic partnership; and/or
- (c) forwarding the petition to the relevant authority.

In any case, the Petition Organiser will be notified of any actions that have been taken.

4. CONCLUSION AND RECOMMENDATIONS

- 4.1 The Council may review its Petition Scheme at any time in the future having regard to the legislation and the statutory guidance. As the new powers came into force on 15th June 2010, the Council must change the existing petition arrangements. As these involve the Council Procedure Rules, any proposed change should stand adjourned without discussion until the next ordinary meeting of the Council. As the legislation came into effect in June however, the new petition arrangements need to be implemented without delay. Council Procedure Rule 20.1 allows the suspension of the Rules, with minor exceptions, if two thirds of those Councillors in attendance vote to do so. To avoid delay, it is proposed that this matter be dealt with without an adjournment. It is therefore

RECOMMENDED

that the Council

- (a) considers the changes outlined in this report that took effect from 15th June 2010;**
- (b) suspends Council Procedure Rule 20.2 for the purpose of considering the changes proposed in the Appendix attached without the need for them to be adjourned to the following Council meeting; and**
- (c) approves the changes to the Council Procedure Rules as set out in attached Appendix.**

BACKGROUND INFORMATION

Local Democracy, Economic Development and Construction Act 2009 – Chapter 2 – Petitions to Local Authorities.

The Local Authorities (Petitions) (England) Order 2010 and Explanatory Memorandum

DCLG Statutory Guidance on the Duty to Respond to Petitions

The Consultation Institute Alternative Model Scheme

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