

MEETING OF THE COUNCIL

14 JULY 2010

REPORT OF MONITORING OFFICER

LISTENING TO COMMUNITIES – STATUTORY GUIDANCE ON THE DUTY TO RESPOND TO PETITIONS

1.0 PURPOSE OF REPORT

- 1.1 To consider and approve a Petitions Scheme under the provisions of the Local Democracy, Economic Development and Construction Act 2009 which imposed a duty on local authorities to respond to petitions – Appendix A.
- 1.2 To note that the Overview, Scrutiny and Audit Committee had considered the Petitions Scheme at its meeting on 8 June 2010 and to consider its recommendation that with regard to an Officer giving evidence, the Overview, Scrutiny and Audit Committee also consider any petitions under the 750 signature threshold.
- 1.3 To amend the Constitution accordingly.
- 1.4 To note that a review of the scheme and the procedure for the E-Petition element of the scheme be considered by the Council prior to the 15 December 2010 deadline.
- 1.5 To request the Council to agree a supplementary estimate of up to £7,000 to purchase an E-Petition facility to meet the 15 December 2010 deadline for this requirement.

2.0 RECOMMENDATIONS

- 2.1 **The Petitions Scheme at Appendix A be approved including the amendment requested by the Overview, Scrutiny and Audit Committee and thereafter be published on the Council's website and the Constitution be amended accordingly.**
- 2.2 **It be noted that the Council review the scheme later in the year and consider an E-Petitions procedure prior to the 15 December 2010 deadline.**
- 2.3 **A supplementary estimate be approved of up to £7,000 from the working balance to purchase an E-Petition facility to meet the 15 December 2010 deadline for this requirement.**

3.0 KEY ISSUES

3.1 Introduction

The Local Democracy, Economic Development and Construction Act 2009 introduced a duty on the part of local authorities to respond to petitions.

3.2 The core elements of the petition's duty come into force on 15 June 2010. There are further provisions relating to the need to make the scheme available for E-Petitions which comes into effect on 15 December 2010.

3.3 Councils are required to adopt a 'Petitions Scheme' to deal with petitions. The Department for Communities and Local Government (DCLG) has produced a model petition scheme. Local authorities may choose to adopt this scheme, adapt it to their local circumstances or to design their own, providing it meets the minimum requirements of the duty. A proposed Petitions Scheme is attached at Appendix A and the DCLG's Statutory Guidance and Model Petitions Scheme is attached at Appendix B for comparison and reference.

3.4 The petitions duty in the 2009 Act requires Councils to respond to petitions and tell local people what action is going to be taken to address their concerns.

3.5 All principal local authorities in England are required to establish a scheme for handling petitions made to the authority.

3.6 The Scheme

- Must be approved by the Council before it comes into force
- Must be published on the Council's website and by any other means appropriate for bringing it to the attention of those who live, work or study in its area
- Can be revised at any time but the revised scheme must be approved and publicised as detailed above
- The authority must comply with its Petitions Scheme

3.7 **Minimum Requirements for the Scheme**

The 2009 Act sets out minimum requirements for the scheme as follows:-

- Anyone who lives, works or studies in the local authority area, including under 18s, can sign or organise a petition and trigger a response
- With effect from 15 December 2010, the local authority must have a facility for making electronic petitions
- Petitions must be acknowledged within the time period specific by the local authority
- Among the many possible steps the Council may choose to take in response to a petition, the following steps must be included with the options listed within the scheme :-
 - Taking the action requested in the petition
 - Considering the petition at a meeting of the authority
 - Holding an enquiry
 - Holding a public meeting
 - Commissioning research
 - A written response to the petition organizers setting out the authority's views on the request in the petition
 - Referring the petition to the Overview, Scrutiny and Audit Committee
- Petitions with a significant level of support trigger a debate of the full Council. Councils will determine this threshold locally but it must be no higher than 5% of the local population

- Petitions with the requisite level of support, set by the local authority, trigger a senior local government officer to give evidence at a meeting of the authority's Overview, Scrutiny and Audit Committee
 - Petition organisers can prompt a review of the local authority's response if the response is felt to be inadequate
- 3.8 The guidance encourages local authorities to consider designing a scheme which is wider than the requirements eg. responding to petitions from those who do not live, work or study in the local authority area or E-Petitions which are not made through the authority's E-Petition facility.
- 3.9 When designing a scheme, Councils are expected to take into account local circumstances, ensure that the scheme is accessible to all and ensure that the process is easy to use.
- 3.10 As a minimum, a local authority's Petitions Scheme must apply if a petition meets all of the following criteria :-
- It calls for the authority to take action
 - It is signed by the requisite number of people who live, work or study in the local area
 - It is made under another enactment but does not qualify under that enactment
 - If made electronically, it is made through the authority's E-Petition facility
- 3.11 The relevant legislation does not define what constitutes a petition but the guidance advises that local authorities are to make sensible judgements particularly for example about whether to deal with an item of correspondence under its Petitions Scheme or under some other procedures, such as its internal complaints procedure. The DCLG's view is that authorities should treat as petitions, for the purpose of their scheme, anything which identifies itself as a petition or which a reasonable person would regard as a petition.
- 3.12 Local authorities can choose to verify the signatures given on a petition should they wish to (although this will be very difficult in practice) and in the case of E-Petitions, must decide what counts as an authentic signature e.g. this could be a valid email address or postcode or both.
- 3.13 Local authorities are not required to respond to petitions which are vexatious, abusive or otherwise inappropriate.
- 3.14 Top tier authorities are required to respond to petitions which relate to the functions of partner authorities as well as those which relate to their own functions but a corresponding duty does not apply to district councils.
- 3.15 Petitions made under other enactments eg. a petition on a mayoral referendum should be dealt with according to the procedures set out in the relevant enactment. However, in such cases if such a petition fails to meet the requirements of the enactment in question it should be addressed through the local authority's Petitions Scheme in exactly the same manner as any other petition.
- 3.16 The following are excluded from the scope of the petition's duty :-

- Any matter relating to a planning decision, including about a development plan document or the community infrastructure levy
 - Any matter relating to an alcohol, gambling or sex establishment licence decision
 - Any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to review or right of appeal confirmed by or under any enactment
- 3.17 However, failure to deliver services in the areas listed above remains within the scope of the duty eg. a petition on an individual planning application is excluded from the duty but a petition about the authority's failure to deliver an effective service for planning applications would be in scope.
- 3.18 When in receipt of a petition on an excluded matter, the Council should acknowledge receipt of the petition and explain why the matter is not covered by the authority's Petitions Scheme.
- 3.19 **Responding to Petitions**
Principal local authorities are required to take appropriate steps when responding to the petitions they receive and the response should be proportionate to the seriousness of the issue and the level of support contained in the petition. The guidance encourages authorities to be innovative when considering their response to petitions.
- 3.20 **E-Petitions**
The E-Petitions element of the legislation comes into force on 15 December 2010. The 2009 Act applies the same requirements to electronic petitions as to paper petitions except for the following:-
- Principal local authorities are only required to respond to E-Petitions made through their E-Petition facility
 - Principal local authorities must decide when a request to host an E-Petition is received whether the petition is appropriate for publishing on their facility
 - Principal authorities will decide what equates to a signature on a petition
 - Principal local authorities are required to provide a facility for people to submit petitions to the authority electronically. In addition to this, local authorities can choose to respond to E-Petitions submitted by other means and if they choose to do this, should indicate in their Petitions Scheme how they will deal with these types of petitions
- 3.21 The authority's E-Petition must allow citizens to create a petition which can be published on-line and made available to others for electronic signature. Acceptances of email petitions will not meet this requirement.
- 3.22 In dealing with E-Petitions, Councils will need to take into account issues such as Data Protection, libel and a requirement to comply with equalities and anti-discrimination legislation.
- 3.23 **Petitions Debate**
Principal local authorities are required to set out in their Petitions Scheme the number of signatures needed to trigger a debate as part of the authority's

response to the petition. The stated purpose of this is to increase the transparency of the local decision-making process.

3.24 The Local Authorities (Petitions) (England) Order 2010 stipulates that the maximum threshold which can be set is 5% of the local population. The guidance encourages local authorities to set a much lower figure. The maximum threshold in the case of Melton would be approximately 2,400. **The model scheme includes a threshold of 1,500 and this figure is suggested as the threshold for Melton.**

3.25 The guidance notes that an authority is not required to hold a debate in response to any petition which falls outside the scheme eg. because it is vexatious or relates to a licensing or planning decision. Petitions calling for evidence from an officer are also excluded from the requirement to hold a debate.

3.26 **Giving Evidence**

Petition Schemes must allow for petitions to trigger a senior member of Council staff to attend a meeting of the authority's Overview, Scrutiny and Audit Committee and answer questions about their work. The guidance says that this is based on the principle that local government should be as transparent as possible and that officers are accountable to Elected Members. It therefore allows members of the local community to make use of petitions to influence the way that this scrutiny takes place. The authority's Petitions Scheme must specify how many signatures will be needed to require an officer to attend a public hearing. The guidance suggests that the threshold be expressed as a specified number of signatures. **The model scheme includes a threshold figure of 750 and this figure is suggested as the threshold for Melton.**

3.27 The Petitions Scheme has to specify those senior officers who can be called to account. It must include the Head of Paid Service and Chief Officers as defined by the Local Government and Housing Act 1989 (in the case of Melton, the Chief Executive and the two Corporate Directors).

3.28 Members will need to decide if the definition of 'relevant officer' for the purposes of the Petitions Scheme should be confined to the Chief Executive and Corporate Directors or whether it should also include Heads of Service. **It is proposed that the definition of 'relevant' officer for the purposes of the Petitions Scheme should be the Chief Executive, Corporate Directors and Heads of Service.**

3.29 It should be noted that the grounds given in a petition for attendance at a meeting of the Overview, Scrutiny and Audit Committee of a named officer must relate to their job and cannot relate to their personal circumstances or character. Also an officer cannot be required to attend a meeting of the Overview, Scrutiny and Audit Committee to give evidence if the petition calling for the attendance is deemed to be vexatious, abusive or otherwise inappropriate.

3.30 **Petition Reviews**

The Act makes provision for what is essentially a right of appeal if a petition organiser is not satisfied with the way an authority has dealt with the petition. The organiser has the power to ask an Overview, Scrutiny and Audit Committee to review the authority's response to the petition and the Overview, Scrutiny and

Audit Committee will decide whether the steps taken by the authority in response to the petition were adequate.

3.31 If the Overview, Scrutiny and Audit Committee is particularly concerned, it can arrange for the Full Council to carry out the review function ie. it can arrange for the authority's response to the petition to be discussed at a meeting of the Full Council. The Council must inform the petition organiser of the results of the review and the results should generally be published on the local authority's website.

3.32 **Existing Arrangements for Dealing with Petitions**

The Council Procedure Rules, at Rule 24, already has a procedure for dealing with petitions which is as follows:-

24. PETITIONS

24.1 If any petition is submitted to the Chief Executive, either directly or indirectly, relating to the exercise or non-exercise of duties or powers of the Council, and signed by at least 20 residents of the Borough, it should be referred to the next meeting of the committee responsible for the administration of the powers in connection with the subject matter of the petition. In addition, the Chief Executive shall report the receipt of such a petition to the next meeting of the Council where there shall be no debate or comment thereon.

3.33 It is noted that the existing scheme is still relevant for petitions with less than the 1,500 signature threshold of the proposed new scheme. It is intended that the existing scheme be named Part 2 of the Petitions Scheme.

3.34 **E-Petitions and Review**

It is proposed that the Council review the operation of the Petitions Scheme and at the same time consider the further provisions relating to E-Petitions to meet the E-Petitions implementation deadline of 15 December 2010.

4.0 **POLICY AND CORPORATE IMPLICATIONS**

4.1 The scheme is compatible with the Council's intention to be more proactive in promoting democracy and involving the community in Council decision-making.

5.0 **FINANCIAL AND OTHER RESOURCE IMPLICATIONS**

5.1 With regard to the E-Petitions element of the scheme, a supplementary estimate of £7,000 is requested to purchase a web-based facility and this be met from the Working Balance.

5.2 On the remainder of the scheme, financial and resource implications will be met from within existing arrangements.

6.0 **LEGAL IMPLICATIONS/POWERS**

6.1 To adopt a Petitions Scheme complies with the Council's statutory responsibility under the Local Democracy, Economic Development and Construction Act 2009.

7.0 **COMMUNITY SAFETY**

7.1 There are no community safety implications in this report.

8.0 **EQUALITIES**

8.1 The scheme will be available to the public.

9.0 **RISKS**

9.1 If a Petitions Scheme is not adopted, the Council could be accountable for public challenge.

10.0 **CLIMATE CHANGE**

10.1 There are no climate change implications in this report

11.0 **CONSULTATION**

11.1 The model scheme was presented to the Constitution Review Task Group on 12 April 2010 and that group requested deferral for further work and that the Overview, Scrutiny and Audit Committee consider the scheme before adoption by the Council. The Overview, Scrutiny and Audit Committee considered the scheme on 8 June 2010.

12.0 **WARDS AFFECTED**

12.1 All.

Contact Officer:	Senior Democracy Officer
Date:	5 July 2010
Appendices:	A – Petitions Scheme B – DCLG Statutory Guidance including Model Petitions Scheme
Background Papers:	Consultation on Draft Statutory Guidance on the Duty to Respond to Petitions Overview, Scrutiny and Audit Committee – Minutes of 8 June 2010
Reference:	X: Committees/Council/2010-11/080610 SE – Petitions Scheme