

MODERN LOCAL GOVERNMENT GROUP – 8 JULY 2010

THE DUTY TO RESPOND TO PETITIONS

Report of the:	Corporate Resources Director
Also to be considered by:	Performance and Governance Committee – 29 June 2010 Council – 20 July 2010
Status:	For Consideration
Key Decision:	No

Executive Summary:

The Council already has effective procedures in place to allow members of the public to submit and present petitions to the Council and to ensure that they receive a response to that petition. Under the Local Democracy, Economic Development and Construction Act 2009, the Council is required to formally adopt a petition scheme. In practice, this petition scheme would largely maintain the Council's current practices for the majority of petitions, whilst encompassing some new procedures to ensure compliance with some extra requirements under the Act. The requirement to formally approve a petition scheme came into force on 15 June 2010.

The Act also requires Councils to make available an e-petitions software system for public use but this requirement does not come into force until 15 December 2010.

Portfolio Holder Cllr. Elaine Bracken

Head of Service Mrs. Christine Nuttall

Recommendation:

It be RESOLVED that Council be recommended to:

- (a) adopt the Petition Scheme (attached as Appendix A) and include it as Appendix Y to the Council's Constitution;
 - (b) implement the Petition Scheme with immediate effect, with the exception of those sections of the scheme which relate to e-petitions.
 - (c) grant the Chief Executive delegated authority to bring the e-petitions elements of the Petition Scheme into effect, no later than 15 December 2010 (or such other timescale as approved by Government).
 - (d) designate the Chief Executive as "petitions officer", with responsibility for determining the admissibility of petitions under the scheme and delegated
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authority to make minor administrative amendments to the petition scheme if required.

- (e) agree the consequential amendments to Part 2 of the Constitution - Council Procedure Rules (Appendix B) and Part 5 of the Constitution - Overview and Scrutiny Procedure Rules (Appendix C).
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Introduction

- 1 The Council's Constitution currently allows residents to present petitions to meetings of the Full Council if they wish and provides for petitions to be referred to other Council Committees for investigation. However in practice, many lead petitioners do not choose to attend Council meetings and are satisfied for their petitions to be considered by officers. As a matter of good practice, the Council ensures that lead petitioners always receive a response to any petitions they submit.
- 2 Notwithstanding its current arrangements, the Council is required by the Local Democracy, Economic Development and Construction Act 2009 (The Act) to formally approve a petitions scheme, which must conform to a minimum set of requirements prescribed by the Act. In practice, many of the requirements are similar to the Council's current procedures. However, there are some new requirements under the legislation which are set out in more detail below.
- 3 The duty to approve a petition scheme under the Act came into force on 15 June 2010. The Department for Communities and Local Government (DCLG) produced a Model Petition Scheme, which has been used as a template for the draft petition scheme contained as Appendix A. The draft petition scheme maintains the Council's current procedures wherever possible whilst ensuring that all legislative requirements are adhered to.

Legislative Requirements

- 4 The Act specifies a number of minimum requirements which the Council's Petition Scheme must meet. The Act's minimum requirements are that:
 - Anyone who lives, works or studies in the local authority area, including under 18s, can sign or organise a petition and trigger a response
 - Petitions must be acknowledged within a time period specified by the local authority
 - A facility for making electronic petitions is provided by the local authority (although this duty does not come into force until 15 December 2010)
 - Among the many possible steps that the local authority may choose to take in response to a petition, the following steps must be included amongst the options listed in the scheme:
 - taking the action requested in the petition

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- considering the petition at a meeting of the authority
 - holding an inquiry
 - holding a public meeting
 - commissioning research
 - a written response to the petition organiser setting out the authority's views on the request in the petition
 - referring the petition to an overview and scrutiny committee (Select 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 a 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 and scrutiny committee (Select Committee)
 - Petition organisers can prompt a review of the local authority's response if the response is felt to be inadequate.
- 5 The Council's current procedures and practices already meet most of these requirements, although the Act requires that these are set out in a formally approved Petitions Scheme. The extent to which some of the requirements differ from the Council's current procedures is set out under the specific headings below.

What is covered by the petition scheme?

- 6 The scope of the Draft Petition Scheme is broadly similar to the Council's current procedures and meets the legislative requirements. The Scheme covers any matter which falls within the authority's functions and which could reasonably be regarded as a petition, unless it is one of the excluded matters set out in paragraph 8 below. The Chief Executive would also continue to have delegated authority to reject petitions that are vexatious, abusive or otherwise inappropriate.
- 7 The Draft Petition Scheme requires petitioners to clearly set out the action they would like taken in response to their petition and guarantees that all petitions will receive a response, reflecting the Council's current practice. It also maintains lead petitioners' rights under the current procedures to attend a meeting of the Full Council and formally present their petitions if they so wish. However, it is likely that the majority of petitions would continue to be responded to by the relevant officer, in consultation with the relevant Cabinet Member.

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- 8 The following matters have been excluded from the scope of the Draft Petition Scheme by the Local Authorities (Petitions)(England) Order 2010 (“the Order”):
- Any matter relating to a planning decision
 - Any matter relating to an alcohol, gambling or sex establishment licensing decision
 - Any 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.

Petitions Requiring Debate

- 9 The Act states that petitions which achieve a high enough level of support must be debated by Members at a meeting of the Full Council. As stated above, the Council’s current procedures allow any lead petitioner to attend a meeting of the Full Council and present their petition. However, they do not currently provide for the petition to be debated at that meeting. In accordance with the legislative requirements, the Council’s Draft Petitions Scheme now provides for a petition which achieves the specified number of signatures to trigger a debate at the Full Council meeting.
- 10 It is for the Council to decide how many signatures it requires before a matter is debated at the Council meeting. The Order states that the maximum threshold which can be set is 5% of the local population, although the guidance recommends that much lower thresholds are set. The number must be expressed as a simple figure in the petition scheme and must be locally appropriate and achievable. The Secretary of State has the power to direct authorities to amend their petition schemes if he/she feels that the threshold set is too high.
- 11 The Guidance recommends that an authority with a population of 150,000 should set the threshold at 1,500 signatures. If Sevenoaks, which has a projected population of 113,000, were to follow this principle, then a threshold of 1,000 signatures might be appropriate. This figure has been included in the appended Draft Petition Scheme.
- 12 In practice, only a small number of petitions are likely to achieve 1,000 signatures and such petitions are likely to be about issues of significant local importance, which Members would be aware of in any event.

Petitions Requiring an Officer to Give Evidence

- 13 Under the Act, a petition may call for senior officers to answer questions at meetings of a Select Committee. The petition should specify which officer is to attend and the issue on which they should be asked questions. Whilst this is a new requirement under the legislation, senior officers would always attend Select Committee meetings where their involvement was required.

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- 14 The Select Committee has the power to ask a different officer to attend the meeting, if it determines that this would be more appropriate. The Select Committee may also require the elected Member with responsibility for the area to be present to answer questions as well. It is for the Select Committee to determine what questions to ask, although the lead petitioner and others can suggest questions before the meeting.
- 15 Local authorities are required to set a threshold for the number of signatures a petition would need for a senior officer to be required to give evidence in this way. The guidance states that whilst the level of support should be appropriate for the steps triggered, thresholds should be achievable and expressed as a simple figure. The Secretary of State has the power to direct authorities to amend their petition schemes if he/she feels that the threshold set is too high.
- 16 The guidance recommends that local authorities set low thresholds and suggests 750 signatures be required in an area with a population of 150,000. If a similar approach were followed in Sevenoaks, then a threshold of 500 signatures might be appropriate. This figure has been included in the draft petition scheme.
- 17 The Act requires statutory and non-statutory chief officers to be capable of being called to answer questions in this way but leaves it to local authorities to determine which other officers, if any, should be subject to this provision. The Draft Petition Scheme states that Heads of Service, Directors and the Chief Executive can be called to attend in this way.

Notification and Publicity

- 18 The Act requires the Council to publicise its petition scheme on its website and in any other place it feels is appropriate. The guidance states that the Council should publish details of all petitions received, along with correspondence which relates to those petitions and the response of the Council to the petition.

Reviewing Responses to Petitions

- 19 The Act gives petition organisers a new right to ask a Select Committee to review the Council's response to a petition. It would then be for the Select Committee to consider whether the steps taken by the authority in response to the petition were adequate. If it is concerned about the adequacy of the response, the Select Committee may conduct a review of the issues raised. If it is very concerned about the issues raised, it may refer the matter to a meeting of the Full Council to be debated.

E-petitions

- 20 The draft petition scheme contains details of how the Council will respond to e-petitions. However, the Council does not yet have an e-petitions software system in place and the e-petitions elements of the Act come into force on 15 December 2010. A temporary note will be included in the scheme to explain that these sections will take effect no later than 15 December 2010.

Consequential Constitutional Amendments

- 21 The Petition Scheme will replace the Council's current procedures with regard to petitions, although many of those principles have been maintained within the scheme. As a result, a consequential amendment is required to Part 2 of the Constitution – The Council and District Council Members, which deletes the Council's current petition procedures and states that all petitions will be handled in accordance with the Petitions Scheme (Appendix B).
- 22 A similar insertion is required to Part 5 of the Constitution - Overview and Scrutiny Procedure Rules, which states that Select Committees will consider petitions as required by the Council's petitions scheme (Appendix C).

Options (and Reasons for the Recommendation)

- 23 The Council is required by the Act and subsequent regulations to approve a petition scheme and to have an e-petitions system in place by 15 December 2010. The Draft Petition Scheme is based on the Model Petition Scheme and has been produced by the DCLG and meets all the requirements of the Act and subsequent guidance.
- 24 The thresholds for the number of signatures required for petitions to be debated and for officers to be called to give evidence to Select Committees contained within the draft petition scheme are based on figures suggested in the guidance. However, as long as the Council ensures that the thresholds it sets are locally achievable and appropriate, the Council has significant flexibility to decide on the number of signatures it will require. Members may, therefore, wish to take a different view with regard to the figures that have been recommended.

Key Implications

Financial

- 25 There are likely to be costs associated with implementing the petition scheme, in terms of officer time and extra time at full council and select committee meetings. There will also be costs if the procurement of an e-petition software system proves necessary.
- 26 The previous Government stated that each local authority would receive a grant for 2010/11 to reflect the costs associated with implementing the legislation. However, it is likely that the new Government will reconsider whether to provide this funding and as such, these costs will probably need to be met from within existing resources.

Community Impact and Outcomes

- 27 The Petition Scheme will increase the options available to local people who organise and sign petitions. It will ensure that there is more publicity of petitions through the Council's website and give petition organisers a right of review if they are not satisfied with the Council's response.

Legal, Human Rights etc.

- 28 The Council is required by the Act and subsequent regulations to approve a petition scheme. It must also have an e-petitions system in place by 15 December 2010. The Council must have regard to the statutory guidance published on 30 March 2010. The draft petition scheme is based on the model petition scheme produced by the DCLG and meets all the requirements of the Act and subsequent guidance.

Resource (non-financial)

- 29 There will be increased officer workload associated with implementing the new duty, which will need to be met from within existing resources.

Conclusions

- 30 It is recommended that the draft petition scheme is adopted immediately, with the e-petitions elements taking effect no later than 15 December 2010.

Risk Assessment Statement

- 31 Failure to approve a Petition Scheme, or to put an e-petitions system in place by 15 December 2010, would leave the Council in breach of the Act. If the thresholds for signatures contained within the petition scheme are not felt to be locally achievable by the Secretary of State, then the Council might be required to amend the scheme.

Sources of Information: Listening to Communities: Statutory Guidance on the duty to respond to petitions

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