

Report to the Overview and Scrutiny Committee



SCRUTINY



Date of meeting: 29 November 2010

**Report of: Constitution & Members Services
Standing Scrutiny Panel**

Portfolio Holder: Leader

Subject: Statutory Guidance on Duty to Respond to Petitions

Responsible Officer: Chris Overend (01992 564247)

Democratic Services Officer: A Hendry (01992 564246)

Recommendations:

That a report be submitted to the Council recommending as follows:

(1) The introduction of a revised petitions scheme (as shown in Appendix) incorporating the following elements:

- requirements for and arrangements for responding to petitions;
- involvement of partner organisations in the petitions process;
- a percentage threshold of 2% of the District's population (2,400) in terms of signatories to a petition required to trigger a debate at Full Council;
- a percentage threshold of 1% of the District's population (1,200) in terms of signatories to a petition required to trigger attendance of a 'Senior Officer' at an Overview and Scrutiny meeting to give evidence on a matter;
- publication on the Council's website; and
- provision of a facility for making electronic petitions to be in place by 15 December 2010.

(2) The required revisions to the Council Procedure Rules, Overview and Scrutiny Procedure Rules, and other necessary amendments to the Constitution be made and reported on by the Assistant to the Chief Executive in due course.

(3) The operation of the revised petitions scheme and its impact be reviewed in the summer of 2011.

Report:

Introduction:

1. At our meeting on 24 June 2010, we received a report setting out the main provisions of the Local Democracy, Economic Development and Construction Act 2009, and subsequent statutory guidance, in respect of the duty to respond to petitions. We noted, in particular, the requirement for the new scheme to be approved by the Full Council; publication on the Council's website; provision of a facility for making electronic petitions to be in place by 15 December 2010; the requirements for responding to petitions; involvement of partner organisations in the petitions process; and the trigger levels required for there to be a debate of the Full Council or for a senior local government officer to give evidence at a meeting of the authority's Overview and Scrutiny Committee.

2. At the 24 June meeting, we approved a draft containing the elements referred to above, to form the basis of the new scheme to be put forward for adoption by the Council. However, to be able to make a more informed decision about the trigger levels which should be applied, we asked for details to be made available of the types of issue referred to in petitions received, by the Council in recent years, and the extent of the geographical area impacted on by the different issues referred to in these petitions. These additional details were made available and discussed by us at our subsequent meeting on 9 November 2010.

3. In a letter of 24 September 2010 the Government advised local authorities that the statutory guidance was to be withdrawn, with local authorities to have more discretion on how to deal with petitions locally. Nonetheless the primary legislation, including the requirement to introduce a facility to make e-petitions, by 15 December 2010 remained in force.

Main Provisions

4. The 2009 Act requires all principal local authorities in England to establish a scheme for handling petitions made to the authority.

5. The scheme must be approved by a meeting of the full Council before it comes into force. In addition it must be published on the local authority's website and by any other method appropriate for bringing it to the attention of those who live, work or study in its area. It can be revised at any time but the revised scheme must be approved and publicised in the same way. A signatory to a petition can be anyone who lives, works or studies in the local authority area, including under 18's. Furthermore, petitions must be acknowledged within a time period specified by the local authority. Among the many possible steps that the principal local authority may choose to take in response to a petition, the following must be included in the options listed in the scheme:

- Taking the action requested in the petition;
- Considering the petition at a meeting of the authority;
- Holding an enquiry;
- Referring the petition to Overview and Scrutiny Committee;
- Holding a public meeting;
- Commissioning research;
- A written response setting out the authority's views on the request in the petition.

6. Petitions with a significant level of support trigger the requirement for a debate of the issue concerned at a Full Council meeting, Local authorities can determine this threshold but it can be no higher than 5% of the local population. Likewise, petitions with a requisite level of support trigger the requirement for a senior local government officer to give evidence at a meeting of the authority's Overview and Scrutiny Committee.

Rejection Petitions

7. Because established processes already existed, the following matters were excluded from the scope of the petitions duty:

- Any matter relating to a planning decision;
- Any matter relating to an alcohol, gambling or sex establishment licensing decision; and
- Any matter relating to an individual or entity in respect of which that individual or entity had a right of course to a review or right of appeal.

Involvement of Partner Bodies in the Petitions Process

8. As community leaders and place-shapers, local authorities have a key interest in issues which, although wider than the remit covered by their specific functions, affect the local area. Petitions are a valuable opportunity for local authorities to demonstrate strong

leadership on issues of concern to the community.

9. The Act requires top tier authorities (Counties and Unitary Authorities) to respond to petitions relating to the economic, social or environmental well-being of the area – in effect this means they must deal with petitions which refer to the functions of partner authorities. There is no specific mention of such a duty on District Councils. However, we are of the opinion that including a reference to the functions of partner bodies in the petitions scheme would illustrate the fact that the District Council is acting as an advocate for the local community and working with partners to resolve the issue. Under the proposed scheme it would be for the Portfolio Holder (or Council) to determine how the Council would respond, which might include referral to another body or working with partners to find a solution. Accordingly we are recommending inclusion of arrangements for involving partner bodies, and the issues they are responsible for, in the new scheme.

Trigger Levels/Thresholds

10. To help us determine the trigger levels/thresholds which should be applied we considered an analysis of the various petitions received by the Council from the 2005/06 Council year to date, in chronological sequence, categorised by type and the area which would be applicable, in determining the relevant % population trigger. We noted that some issues are clearly 'locality specific' whilst others cut across a number of wards. There are those that impact on a District-wide basis and some which affect other Districts. We agreed that the list was useful as a means of not only identifying the types of issue raised, but helping the would-be Responding Officer to determine the geographical area which could be used in applying trigger levels.

11. We received information on population levels for various 'sample' local authorities and the trigger levels set by the local authorities concerned in their newly agreed petitions schemes. We noted that, whilst the maximum trigger level which could be applied is 5%, there was a range of trigger levels being used, starting from 1% of the population in respect of the requirement for a Council debate and 0.5% for senior officer attendance at Overview and Scrutiny Committee, up to the maximum of 5%.

12. We further noted that few local authorities make specific reference to a separate trigger level being applied in respect of 'localised' issues. Most schemes are silent in that regard. One authority which does make reference to these issues, however, is Brentwood and we were in receipt of details of the Brentwood Scheme. This sets a threshold of 200 signatories for a Council debate in respect of parish/ward issues and 100 for such an issue to be referred to Overview and Scrutiny Committee with a senior officer required to be in attendance.

13. After consideration of the options available, we agreed to recommend a 2% trigger level (2,400 signatories) for the requirement for a Council debate and 1% (1,200 signatories) for senior officer attendance. We decided not to set a separate trigger level for localised (ie Parish/Ward) issues but agreed that this option should be reconsidered when the first periodic review of the trigger levels and the operation of the new scheme was carried out.

E-Petitions

14. We noted that the 2009 Act applied the same requirements to electronic petitions as to paper petitions, except for the following:

- Local authorities are only required to respond to e-petitions made through their e-petition facility;
- Local authorities must decide, whether the petition was appropriate for publishing on their facility;
- Local authorities to decide what equates to a signature on a petition; and
- Local authorities were required to provide a facility for people to submit petitions electronically.

15. Principal local authorities, when designing their scheme, are expected to ensure that the scheme is appropriate to their area, that the process is easy for citizens to use and the scheme accessible to all. We took all these issues into account whilst also being mindful of practical considerations, such as extending the scheme to other petitioners' sites, tracking down and responding to petitioners, and validating the authenticity of signatures.

16. Whilst recognising that the Government is now indicating there is now more flexibility in terms of how to respond to petitions locally and what might be incorporated in a new scheme, we agreed that it was preferable to finalise the new scheme in readiness for the implementation of the e-petition requirements. Accordingly we are recommending implementation of the new scheme (as shown in the Appendix attached) along with the new e-petitions arrangements, incorporating all the aspects referred to earlier in this report, on 15 December 2010.

Review of the New Scheme

17. Given that several aspects of the new scheme represent a significant 'departure' from the previous scheme, and the difficulties in establishing appropriate 'trigger' levels, it is suggested that the operation and impact of, the new scheme be reviewed at an early stage. We are therefore recommending that the first review of the scheme take place in the summer of 2011.

Resource Implications:

Minor costs associated with the introduction of the new petitions scheme.

Legal and Governance Implications:

The Local Democracy, Economic Development and Construction Act 2009 sets out new requirements for local authorities in terms of dealing with petitions. The proposals, as set out in this report, indicate the means by which the District Council will meet these requirements.

Consultation undertaken:

Discussion with other local authorities regarding their petitions schemes.

Background papers:

Sample Petitions of other local authorities, Local Democracy, Economic Development and Construction Act 2009 and subsequent guidance on implementation of requirements on petitions.

Key Decision reference: (if required): N/A