

**GOVERNANCE AND AUDIT COMMITTEE  
29 JUNE 2010**

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**PETITION SCHEME  
Director of Corporate Services – Legal**

**1 PURPOSE OF DECISION**

- 1.1 The Local Democracy, Economic Development and Construction Act 2009 (“the Act”) requires every local authority to have an adopted “Petition Scheme”. In addition, by 15<sup>th</sup> December 2010 each authority must have an on-line petition facility, under which anyone may set up a petition on the authority’s website and other persons may “sign up” to the petition on line. This report seeks the endorsement of the Committee to a draft Petition Scheme for adoption by the Council, together with other related decisions required to implement the legislation.

**2 RECOMMENDATIONS**

**2.1 The Council be recommended that:-**

- (a) the threshold for a petition to constitute an “active petition” be set at 20;**
- (b) the threshold number for Petitions for Debate be set at 1,500;**
- (c) the threshold number for Petitions Calling Officers to Account be set at 750;**
- (d) the Chief Executive, Directors and Chief Officers be those designated as those to whom a Petition Calling Officers to Account may be directed;**
- (e) the period for acknowledgement of a petition be specified as (a maximum of) ten working days;**
- (f) the Council’s current Scheme of Public Participation at Council meetings be amended to delete references to petitions; and**
- (g) the draft Petition Scheme shown at Annexe A be approved, subject to the provisions regarding web petitions not coming into effect until 15 December 2010.**

**3 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS**

Borough Solicitor

- 3.1 The Borough Solicitor is the author of this report.

Borough Treasurer

- 3.2 There are no specific resources included within the budget to deal with the response to petitions. It is expected that responding to petitions will be managed within existing resources and appropriate decisions will need to be made about priorities. This is potentially manageable if there are a low number of petitions. The impact on the resources of the Council could be considered if the use of petitions matches the current experience for the use of Freedom of Information requests.

### Equalities Impact Assessment

- 3.3 The new scheme will enhance the opportunities for all members of the public to engage with the Council.

### Strategic Risk Management Issues

- 3.4 None arising

## **4 SUPPORTING INFORMATION**

- 4.1 At its meeting on 14 January 2010 the Constitution Review Group considered a report on a consultation paper on guidance relating to the provisions of the Act concerning petitions.

### Statutory Guidance

- 4.2 The Department for Communities and Local Government has now issued statutory guidance under the Act. The guidance may be found in full on the CLG website.
- 4.3 Some of the key points in the guidance are as follows:-
- the [then] government believes that local authorities should approach their Petition Scheme from the starting point of responding to all the petitions they receive (this effectively means that there is no threshold to constitute an “active petition” requiring one of the responses set out in the fourth bullet point below). Petitions are an important tool for local people to raise concerns with Councillors and it is expected that petitions should trigger action where appropriate.
  - the requirements under the legislation for a Petition Scheme are:-
    - anyone who lives, works or studies in the local authority area, including under 18's, can sign or organise a petition and trigger a response
    - a facility for making electronic petitions is provided by the local authority
    - petitions must be acknowledged within a time period specified by the local authority
    - 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
      - 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
  - petitions with a significant level of support trigger a debate of the full council. Councils will determine this threshold locally but it must not be higher than 5 percent 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
  - petition organisers can prompt a review of the local authority's response if the response is felt to be inadequate
- Government expects any thresholds (in terms of numbers of petitioners) set to be locally achievable. Petition Schemes should ensure that petitions on very local issues, such as anti-social behaviour in particular streets, will receive a response from the Council.
  - the legislation does not define what constitutes a petition – in virtually all cases it will be immediately obvious whether something is or is not a petition. It is however important that authorities make sensible judgements about whether to deal with an item of correspondence under its petition scheme or under some other procedure, such as its internal complaints procedure. The Government's view is that authorities should treat as petitions for the purposes of their scheme anything which identifies itself as a petition or which a reasonable person would regard as a petition.
  - authorities can choose to verify the signatures given on a petition should they wish.
  - as a top tier authority the Council must respond to petitions which relate to an improvement in the economic, social or environmental well being of the Borough to which any of its partner authorities could contribute. This means that the Council must deal with petitions which relate to the functions of partner authorities as well as petitions which relate to their own functions, including petitions on matters which are sub-regional and cross authority.
  - the duty to respond to a petition (other than to acknowledge receipt and to explain why the Council will not be taking action) does not apply to a petition which in the opinion of the Council is vexatious, abusive or otherwise inappropriate. The types of petition which authorities may consider inappropriate include those relating to matters which are part of ongoing legal proceedings or those which target individual members of a community.
  - an Order has been made prescribing that the following matters are excluded from the scope of the petition duty, namely:-
    - planning decisions and Development Plan documents;
    - alcohol, gambling or sex establishment licensing decisions;

- where legislation offers a right of review or appeal.
- it is left to Councils to decide what equates to a signature on an e-petition. The Petition Scheme must secure that the Council's e-petition facility allows citizens to create a petition which can be published online and made available to others for electronic signature.
- although by Order the maximum threshold which can be set for a petition requiring debate is 5% of the local population, it is expected that in most cases a much lower figure will be considered locally appropriate. The threshold should be expressed in the scheme as a single figure.
- in respect of Petitions Calling Officers to Account, authorities must determine which of their officers are able to be called to account. The information should include the names and job titles of the officers in question.
- the final decisions on which officers should attend, and the questions to be asked him or her, rest with the Overview and Scrutiny Committee – the Act provides that the committee can decide that it is more appropriate for an officer other than that named in the petition to address the concerns raised.
- if a petition organiser is not satisfied with the way an authority has dealt with a petition the Act provides that the petition organiser has the right to ask an Overview and Scrutiny Committee to decide whether the steps taken by the authority in response to the petition were adequate. If one of the steps taken by the Council in respect of the petition was to refer the matter to an Overview and Scrutiny Panel then it would probably be inappropriate for the matter to be reviewed by the Panel; rather the review would stand referred to the Overview and Scrutiny Commission.

#### Decisions Required to be Taken

- 4.4 The Council is required to adapt a Petition Scheme. A draft Petition Scheme is shown as Annexe A. The draft is essentially in the form of a Model Scheme appended to the CLG Statutory Guidance. As alluded to in the opening paragraph of this report, the requirement to have an on-line petition facility is not operative until 15 December 2010 and accordingly it is proposed that those parts of the draft Petition Scheme which relate to the on-line facility should be dormant until 15<sup>th</sup> December.
- 4.5 The Council already has a Scheme for Public Participation at Meetings of the Council which allows members of the public to make a submission by way of a petition, a question, a statement or a deputation. It is perhaps an unfortunate but inevitable consequence of a prescriptive piece of legislation that it will supersede local arrangements. Given the requirement to adopt a Petition Scheme it is proposed that the existing Scheme for Public Participation be amended to delete the reference to petitions.
- 4.6 Thresholds have to be set for the triggers for a petition to constitute an "Active Petition" a "Petition for Debate" or a "Petition to hold an Officer to Account". The draft Petition Scheme annexed proposes ten (the figure recommended by the Governance Working Group) as the threshold for Active Petitions but it could be specified as twenty or some other figure. The maximum threshold for Petitions for Debate or a Petition to hold an Officer to Account is 5% of the resident population. The draft Scheme at Annexe A proposes thresholds of 1,500 for a "Petition for Debate" and

750 for a “Petition to hold an Officer to Account”. It is possible to have varying thresholds. For example, one alternative draft scheme which the author of this report has obtained proposes a significantly lower figure if the issue is one which is confined to, say, no more than two wards.

- 4.7 The Petition Scheme must specify a period with which a petition must be acknowledged. The draft Scheme proposes ten working days.
- 4.8 The Petition Scheme must specify which officers may be the subject of a “Petition to hold an Officer to Account”. As a minimum the officers must comprise the Chief Executive, Directors, the Borough Treasurer (in his capacity as Section 151 officer), those officers who report directly to the Chief Executive (other than for secretarial/clerical duties) and officers who as regards most of their duties are directly accountable to a committee of the Council. It is proposed that the officers designated should be the Chief Executive, all Directors and all Chief Officers.

#### Background Papers

CLG Statutory Guidance

Report to Constitution Review Group

#### Contact for Further Information

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#### Doc Ref:

AIJ/f/reports/Governance and Audit Committee - 29.6.10 – Petition Scheme + Annexe A

## **Annex A**

### **Petitions**

The council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. This Petition Scheme applies to petitions which have been signed by twenty or more persons residing working or studying in the Borough. All such petitions sent or presented to the council will receive an acknowledgement from the council within 10 working days of receipt. This acknowledgement will set out what we plan to do with the petition. We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition.

Paper petitions can be sent to:

**Head of Democratic and Registration Services  
Easthampstead House  
Town Square  
Bracknell  
RG12 1AQ**

Or be created, signed and submitted online by following this [insert link]

Petitions can also be presented to a meeting of the council. These meetings take place on a regular basis, dates and times can be found here [link]. If you would like to present your petition to the council, or would like your councillor or someone else to present it on your behalf, please contact [insert name] on [insert phone number] at least 10 working days before the meeting and they will talk you through the process. If your petition has received 1500 signatures or more it will also be scheduled for a council debate and if this is the case we will let you know whether this will happen at the same meeting or a later meeting of the council.

### **What are the guidelines for submitting a petition?**

Petitions submitted to the council must include:

- a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the council to take
- the name and address and signature of any person supporting the petition.

Petitions should be accompanied by contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition. The contact details of the petition organiser will not be placed on the website. If the petition does not identify a petition organiser, we will contact signatories to the petition to agree who should act as the petition organiser.

Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. In the period immediately before an election or referendum we may need to deal with your petition differently – if this is the case we will explain the reasons and discuss the revised timescale which will apply. If a petition does not follow the guidelines set out above, the council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

### What will the council do when it receives my petition?

An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again. It will also be published on our website.

If we can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed. If the petition has enough signatures to trigger a council debate, or a senior officer giving evidence, then the acknowledgement will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take.

If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures apply.

We will not take action on any petition which we consider to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in our acknowledgement of the petition.

To ensure that people know what we are doing in response to the petitions we receive the details of all the petitions submitted to us will be published on our website, except in cases where this would be inappropriate. Whenever possible we will also publish all correspondence relating to the petition (all personal details will be removed). When you sign an e-petition you can elect to receive this information by email. We will not send you anything which is not relevant to the e-petition you have signed, unless you choose to receive other emails from us. [link to account settings]

### How will the council respond to petitions?

Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:

- taking the action requested in the petition
- considering the petition at a council meeting
- holding an inquiry into the matter
- undertaking research into the matter
- holding a public meeting
- holding a consultation
- holding a meeting with petitioners
- referring the petition for consideration by the Overview and Scrutiny Commission or one of the council's Overview and Scrutiny Panels
- calling a referendum
- writing to the petition organiser setting out our views about the request in the petition

The Overview and Scrutiny Commission and its Panel are committees of councillors who are responsible for scrutinising the work of the council – in other words, they have the power to hold the council's decision makers to account.

In addition to these steps, the council will consider all the specific actions it can potentially take on the issues highlighted in a petition. The table below gives some examples.

<b>Petition subject</b>	<b>Appropriate steps</b>
Alcohol related crime and disorder	<p>If your petition is about crime or disorder linked to alcohol consumption, the council will, among other measures, consider the case for placing restrictions on public drinking in the area by establishing a designated public place order or, as a last resort, imposing an alcohol disorder zone. When an alcohol disorder zone is established the licensed premises in the area where alcohol related trouble is being caused are required to contribute to the costs of extra policing in that area. The council's response to your petition will set out the steps we intend to take and the reasons for taking this approach.</p>
Anti-social behaviour (ASB)	<p>As the elected representatives of your local area, and licensing authority, the council plays a significant role to play in tackling anti-social behaviour. The council, in conjunction with our partners in the local crime and disorder partnership have set out minimum service standards for responding to issues of anti-social behaviour, you can find more details about these standards here <a href="#">[insert link]</a>.</p> <p>When responding to petitions on ASB, we will consider in consultation with our local partners, all the options available to us including the wide range of powers and mechanisms we have to intervene as part of our role as a licensing authority. For example, we will work with the neighbourhood policing team in the affected area to identify what action might be taken including what role CCTV might play, consider identifying a dedicated contact within the council to liaise with the community and neighbourhood partners on issues of ASB in the area in question and, where appropriate, we will alert the crime and disorder reduction partnership and the Overview and Scrutiny Commission to the issues highlighted in the petition.</p>
Under-performing schools	<p>We will consider, in consultation with local partners, all the options available to us when working with schools to secure their improvement. For example, on our behalf, the school improvement partner will play a pivotal role, challenging and brokering support for poorly performing schools. Where a school is under performing we will consider whether it is appropriate in the circumstances to issue a warning notice outlining expectations and a timeframe for the school to improve its performance standards. Other measures available to us, where schools fail to comply with a warning notice or are in an Ofsted category of notice to improve (requiring significant improvement) or special measures including; appointing additional governors, establishing an interim executive board, removal of the school's delegated budgets, requiring the school to enter into a formal contract or partnership or, only if the school is in special measures, closure.</p>



Under-performing health services	We will work with local health partners to consider the matter raised in the petition including, where appropriate, exploring what role the Local Involvement Network (LINK) might have in reviewing and feeding back on the issue (the LINK is run by local individuals and community groups and independently supported – their role to find out what people want in terms of local health services, monitor those services and to use their powers to hold them to account). The Health Overview and Scrutiny Panel will also be alerted to the petition and where the matter is sufficiently or potentially serious, the issue will be referred to them to consider for review.
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If your petition is about something over which the council has no direct control (for example the local railway or hospital) we will consider making representations on behalf of the community to the relevant body. The council works with a large number of local partners and where possible will work with these partners to respond to your petition. If we are not able to do this for any reason (for example if what the petition calls for conflicts with council policy), then we will set out the reasons for this to you. You can find more information on the services for which the council is responsible here [\[link\]](#).

If your petition is about something that a different council is responsible for we will give consideration to what the best method is for responding to it. This might consist of simply forwarding the petition to the other council, but could involve other steps. In any event we will always notify you of the action we have taken.

#### Full council debates

If a petition contains more than 1,500 signatures it will be debated by the full council unless it is a petition asking for a senior council officer to give evidence at a public meeting. This means that the issue raised in the petition will be discussed at a meeting which all councillors can attend. The council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting. The petition organiser will be given three minutes to present the petition at the meeting and the petition will then be discussed by councillors for a maximum of 15 minutes (this is subject to a total maximum of one hour being spent in the consideration of petitions. A petition which cannot be dealt with within that hour may stand referred to the next meeting of the Council). The council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee. Where the issue is one on which the council executive are required to make the final decision, the council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

#### Officer evidence

Your petition may ask for a senior council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, your petition may ask a senior council officer to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision.

If your petition contains at least 750 signatures, the relevant senior officer will give evidence at a public meeting of the council's Overview and Scrutiny Commission or one of its Panels. A list of the senior staff that can be called to give evidence can be found at Annexe A. You should be aware that the Overview and Scrutiny Commission or Panel may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition – for instance if the named officer has changed jobs. The Commission or Panel may also decide to call the relevant councillor to attend the meeting. Members will ask the questions at this meeting, but you will be able to suggest questions to the chairman of the Commission or Panel by contacting the Head of Democratic and Registration Services up to three working days before the meeting.

### E-petitions

The council welcomes e-petitions which are created and submitted through our website [link]. E-petitions must follow the same guidelines as paper petitions [link to guidelines]. The petition organiser will need to provide us with their name, postal address and email address. You will also need to decide how long you would like your petition to be open for signatures. Most petitions run for six months, but you can choose a shorter or longer timeframe, up to a maximum of 12 months.

When you create an e-petition, it may take five working days before it is published online. This is because we have to check that the content of your petition is suitable before it is made available for signature.

If we feel we cannot publish your petition for some reason, we will contact you within this time to explain. You will be able to change and resubmit your petition if you wish. If you do not do this within 10 working days, a summary of the petition and the reason why it has not been accepted will be published under the 'rejected petitions' section of the website.

When an e-petition has closed for signature, it will automatically be submitted to [insert details]. In the same way as a paper petition, you will receive an acknowledgement within 10 working days. If you would like to present your e-petition to a meeting of the council, please contact the Head of Democratic and Registration Services within 10 working days of receipt of the acknowledgement.

A petition acknowledgement and response will be emailed to everyone who has signed the e-petition and elected to receive this information. The acknowledgment and response will also be published on this website.

### How do I 'sign' an e-petition?

You can see all the e-petitions currently available for signature here [insert link].

When you sign an e-petition you will be asked to provide your name, your postcode and a valid email address. When you have submitted this information you will be sent an email to the email address you have provided. This email will include a link which you must click on in order to confirm the email address is valid. Once this step is complete your 'signature' will be added to the petition. People visiting the e-petition will be able to see your name in the list of those who have signed it but your contact details will not be visible.

### What can I do if I feel my petition has not been dealt with properly?

If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that the Overview and Scrutiny Commission or one of its' Panels review the steps that the council has taken in response to your petition. It is helpful to everyone, and

can improve the prospects for a review if the petition organiser gives a short explanation of the reasons why the council's response is not considered to be adequate.

The Commission or Panel will endeavour to consider your request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the Commission or Panel determine we have not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the Council's Executive and arranging for the matter to be considered at a meeting of the full council.

Once the appeal has been considered the petition organiser will be informed of the results within 5 working days. The results of the review will also be published on our website.