

MEETING:	COUNCIL
DATE:	28 MAY 2010
TITLE OF REPORT:	LISTENING TO COMMUNITIES: DUTY TO RESPOND TO PETITIONS
REPORT BY:	CABINET MEMBER CORPORATE AND CUSTOMER SERVICES AND HUMAN RESOURCES

CLASSIFICATION: Open

Purpose

To advise Members that the duty to respond to petitions will come into force on 15 June 2010 (15 December for e-petitions) and seek approval for the Council's Petitions Scheme.

Recommendation(s)

THAT:

- (a) **Council approves the draft Petitions Scheme;**
- (b) **the scheme be reviewed after 12 months, and;**
- (c) **the Monitoring Officer be instructed to make any appropriate changes to the Constitution to give effect to recommendations (a) and (b) above, and publish the amendments.**

Key Points Summary

- The petitions duty is contained in the Local Democracy, Economic Development & Construction Act 2009. The duty on local authorities will come into force on 15 June 2010 with the e-petitions requirement coming into force on 15 December 2010. The Petitions Scheme must be adopted by Council on 28 May in order to meet the 15 June deadline for compliance.
- The petitions duty places a requirement on local authorities to respond to petitions and inform the public what action will be taken to address their concerns.
- A number of statutory requirements will need to be met in the Petitions Scheme and the current constitution will need to be amended to ensure compliance. Additional elements require local determination and these are noted within the report together with proposals for consideration.
- An e-petition facility will need to be made available through the Council's website by 15 December.

Alternative Options

- 1 There are no Alternative Options due to statutory requirement for developing a Petitions Scheme, however the authority does have some discretion relating to certain elements within the Scheme as outlined in the report e.g threshold levels.

Reasons for Recommendations

- 2 To comply with statutory requirements.

Introduction and Background

- 3 The Local Democracy, Economic Development and Construction Act 2009 requires every local authority, from 15 June 2010, to have adopted a Petition Scheme which sets out how it will handle petitions, and by 15 December 2010 to have an on-line petition facility. The Petitions Scheme, forming part of the council's constitution, requires the approval of Council.

Key Considerations

- 4 The 2009 Act requires petition schemes for local authorities to meet some minimum standards in order to ensure minimum entitlements which all citizens can expect, especially where certain thresholds have been met. Beyond these requirements local authorities have flexibility about how they approach the duty thus allowing scope for local determination.
- 5 As a minimum the council should: acknowledge all petitions; consider what action could and should be taken in response to each petition; provide a formal response to the petition organiser explaining what, if any, action will be taken; and enable the petition organiser to appeal. The attached draft Petitions Scheme includes all the statutory requirements.
- 6 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.
- 7 The following steps must be included amongst the options listed in the scheme:
 - (a) Taking the action requested in the petition
 - (b) Considering the petition at a meeting of the authority
 - (c) Holding an inquiry
 - (d) Holding a public meeting
 - (e) Commissioning research
 - (f) A written response to the petition organiser setting out the authority's views on the request in the petition
 - (g) Referring the petition to an overview and scrutiny committee.
- 8 Petitions with significant level of support must trigger a debate at a Meeting of Council. Councils determine this threshold locally but it must be no higher than 5% of the local population. It is proposed that this be set at 7,000 signatures for the Herefordshire Council Petitions Scheme which is equivalent to 5% of the current electoral roll.
- 9 Petitions with requisite level of support, set by the local authority, must trigger a senior local

government officer or Cabinet Member to give evidence at a meeting of the authority's Overview and Scrutiny Committee. It is proposed that this be set at 3,500 signatures for the Herefordshire Council Petitions Scheme which is equivalent to 2.5% of the current electoral roll.

- 10 It is proposed that 15 signatures trigger the process for handling ordinary petitions, a process which is determined by the authority.
- 11 It is proposed to recognise within the scheme petitions relating to a specified area or locality. The thresholds for such a petition would be the equivalent to 5% of the electoral roll in the area/locality.
- 12 The Petitions Scheme may not apply where other existing rights of appeal exist (e.g planning applications). Should a petition be considered to be vexatious, abusive or otherwise inappropriate, the Council does not have to act upon it. In all other cases the Council should consider what action could and should be taken – even where the petition does not relate to its functions (where representation may be made on behalf of the community to the relevant body) or in needing to work with local partners to respond to the petition.
- 13 The statutory guidance recommends that the scheme be reviewed after 12 months.
- 14 Once published, the local authority must comply with its Petitions Scheme but it can revise it at any time by taking the steps set out in Section 11 of the 2009 Act. The Secretary of State has the power to direct local authorities to amend their petitions schemes.
- 15 The 2009 Act applies the same principle requirements to electronic petitions as to paper petitions. This duty will come into force on 15 December 2010.

Community Impact

- 16 The key outcome outlined in the statutory guidance is that; *'everyone, no matter where they live, will be easily able to find information about how to petition their local authority and they will know what to expect from their local authority response'*.

Financial Implications

- 17 Under the new burdens principles, it was stated that central government would meet the costs of the new burdens associated with the petitions duty. The national cost to the public sector of responding to local petitions has been estimated at £4.7 million a year (decreasing over time). These costs arise from set up costs and increased work for council officers, council meetings and overview and scrutiny committees. It was proposed that local authorities would each receive a grant for 2010/11 dependent on the local population. It was expected that funding for future years would be incorporated into the revenue support grant. We are awaiting confirmation following the recent change of government.

Legal Implications

- 18 The Council will need to meet the statutory requirements and comply with its petitions scheme.

Risk Management

- 19 There is a risk of not meeting the implementation date if the Petitions Scheme is not formally adopted by Council on 28 May 2010 (in advance of the 15 June implementation date).

Consultees

- 20 A formal response was provided by the Council to the formal consultation
- 21 The Duty to Respond to Petitions has been considered by the Constitutional Review Working Group, informally by the Overview and Scrutiny Committee and by the Joint Management Team.

Appendices

- 22 (1) Herefordshire Council's Petitions Scheme (draft for approval)

Background Papers

- Local Democracy, Economic Construction and Development Act 2009

DRAFT Petitions Scheme

1. The council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns.
2. All 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.

Paper petitions can be sent to:

Democratic Services Manager
Herefordshire Council
Brockington
35 Hafod Road
Hereford
HR1 1SH

3. From December 2010 petitions will be able to be created, signed and submitted on line from the Herefordshire Council website.
4. Petitions can also be presented to a meeting of the Council, dates and times can be found on the Herefordshire Council website [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 The Democratic Services Manager on 01432 260222 at least 10 working days before the meeting and they will talk you through the process.

What are the guidelines for submitting a petition?

5. We treat as a petition any communication which is signed by or sent to us on behalf of at least 15 signatories. 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, address [with postcode] and signature of any person supporting the petition.
6. 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. Whilst we like to hear from people who live, work or study in Herefordshire, this is not a requirement and we would take equally seriously a petition from, for example, 15 visitors to the area on the subject of facilities at one of our visitor attractions.
7. Other procedures apply if the petition:
 - relates to a planning or licensing application,

- is a statutory petition (for example requesting a referendum on having an elected mayor),
 - relates to a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates.
8. Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. If a petition does not follow the guidelines set out in this scheme, the council may decide not to do anything further with it. In that case, we will write to the petition organiser to explain the reason.
9. 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.

What will the council do when it receives my petition?

10. 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.
11. 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.
12. If the petition has enough signatures to trigger a council debate, or a senior officer giving evidence, then the acknowledgment will confirm this and tell you when and where the meeting will take place.
13. If the petition needs more investigation, we will tell you the steps we plan to take.
14. 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.
15. 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).
16. When you sign an e-petition [available from December 2010] 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 have chosen to receive other e-mails from us.

How will the council respond to petitions?

17. Our response to a petition will depend on what a petition asks for and how many people have signed it. 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. For every petition the response will be made public and reported to a meeting of the authority. Details will also be available on our website for all to see

18. In responding we 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 council's overview and scrutiny committee*
- calling a referendum
- writing to the petition organiser setting out our views about the request in the petition

19. In addition to these steps, the council will consider all the specific actions it can potentially take on the issues highlighted in a petition.

*Overview and scrutiny committees are committees of councillors who are responsible for scrutinising the work of the council and making recommendations for improvement– in other words, the overview and scrutiny committee has the power to hold the council's decision makers to account.

20. 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.

21. 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 petitions calls for conflicts with council policy), they we will set out the reasons for this to you.

22. 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.

23. There are two special actions that the Council will undertake if your petition has enough signatures – either triggering a council debate or a senior officer/Member giving evidence on a matter. In these circumstances 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. Where more than one petition is received in time for a particular meeting, each supporting the same outcome on one matter, each petition organiser will be treated as an independent petition organiser, but only the petition organiser of the first petition to be received will be invited to address the relevant meeting. A

petition will not normally be considered where they are received within 6 months of another petition being considered by the authority on the same matter.

Debates at Meetings of Council

24. If a petition contains more than 7,000 signatures (which is approximately 5% of the electoral roll in Herefordshire) it will be debated by a Meeting of 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.
25. 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. Petitions will not be considered at the Annual Meeting of Council or at Extraordinary Meetings of Council which are not convened to consider the subject matter of the petition. The petition organiser will be given three minutes to present the petition at the meeting and the petition will then be discussed by councillors. A maximum of 30 minutes will be allowed at any meeting to consider up to three petitions, however this may be extended at the discretion of the Chairman.
26. 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.
27. 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

28. 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.
29. If your petition contains at least 3,500 signatures (approximately 2.5% of the electoral roll of Herefordshire), the relevant senior officer or Cabinet Member will give evidence at a public meeting of the council's overview and scrutiny committee.
30. The senior staff that can be named on a petition and called to give evidence are the Chief Executive and Directors of Herefordshire Council. You should be aware that the overview and scrutiny committee 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.
31. Committee members will ask the questions at this meeting, but you will be able to

suggest questions to the chair of the committee by contacting Democratic Services up to three working days before the meeting.

32. Upon receipt of your petition it will be passed to the Chairman of the overview and Scrutiny committee who will arrange for it to be considered at the most appropriate Committee.

Petitions relating to a specified area

33. Over and above an ordinary petition (requiring 15 signatures) the Council provides for a petition which pertains to an area or locality to be formally recognised within the Petitions Scheme. Using the electoral roll for the area as a baseline, should such a local petition receive a number of signatories equivalent to or greater than 5%, this could trigger a debate at a relevant meeting.

E-petitions

34. From December 2010 you will also be able to use Herefordshire Council's website to design an online petition. Once this has been moderated and approved you will then be able to collect signatures via the web and submit the petition on line.
35. The council welcomes e-petitions which are created and submitted through our website. E-petitions must follow the same guidelines as paper petitions.
36. 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.
37. 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.
38. 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.
39. When an e-petition has closed for signature, it will automatically be submitted to the Democratic Services Manager. In the same way as a paper petition, you will receive an acknowledgement within 10 working days.
40. If you would like to present your e-petition to a meeting of the council, please contact the Democratic Services Manager within 10 working days of receipt of the acknowledgement.
41. 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?

42. 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.
43. 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?

44. If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that the council's overview and scrutiny committee review the steps that the council has taken in response to your petition. The petition organiser will be requested to give a short explanation of the reasons why the council's response is not considered to be adequate.
45. The relevant Scrutiny Committee will endeavour to consider your request at its next meeting. Should the committee 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 executive and arranging for the matter to be considered at a Meeting of the Council.
46. 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.

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