

CABINET – 9 July 2010

PRINCIPAL SCRUTINY COMMITTEE - 12 JULY 2010

LOCAL DEMOCRACY, ECONOMIC DEVELOPMENT AND CONSTRUCTION ACT
2009 - PETITIONS

REPORT OF CORPORATE DIRECTOR (GOVERNANCE)

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RECENT REFERENCES: None

EXECUTIVE SUMMARY:

The Local Democracy, Economic Development and Construction Act 2009 included requirements for local authorities to have formal procedures in respect of petitions, particularly regarding the response to petitioners, and for mechanisms for a right of appeal. The Act also required Councils to provide facilities for an 'e-petition' scheme in due course.

Statutory guidance and secondary legislation to support this duty have now been issued and local authorities are expected to put in place administrative procedures to support petitions immediately, with a deadline of 15 December 2010 for the introduction of a full e-petition scheme.

The City Council has operated a petitions procedure for many years (Council Procedure Rule 15 refers) and a copy is attached as Appendix 1. That procedure mirrors many aspects of the new proposals, although some amendments will be required to that Rule and other parts of the Constitution.

The Guidance requires a Petitions Scheme to be approved, which would also appear on the website.

RECOMMENDATIONS:

That Cabinet recommend to Council:

1. that the Council's Petitions Scheme should include the following elements:
 - (a) the threshold for a Petition for debate at full Council should be:
 - (i) For an issue which mainly relates to a single ward:
100 hundred signatures – 1 Member ward; 200 signatures – 2 Member ward and 300 signatures – 3 Member ward.
 - (ii) For an issue which affects 2 or more wards:
500 signatures.
 - (b) the threshold for petitions to hold an officer to account should be:
300 signatures.
 - (c) that for the purpose of petitions to hold an officer to account, the local definition is that it applies to Corporate Management Team and Heads of Teams reporting directly to the Chief Executive or Corporate Directors.
 - (d) that no more than 2 petitions be allowed on the agenda of any meeting of full Council.
2. that the adoption of a Petitions Scheme, be delegated to the Corporate Director (Governance), in consultation with the Leader and Chairman of Principal Scrutiny Committee, to take account of the decisions in recommendation 1 above and the model scheme as set out in Appendix B to this report.
3. that the Corporate Director (Governance) be authorised to make all consequential changes arising from adoption of the Petitions Scheme to other parts of the Council's Constitution.
4. that the Corporate Director (Governance) be authorised to determine whether any petitions should be ruled out as vexatious or otherwise contrary to the provisions of the Local Democracy, Economic Development and Construction Act 2009 and its related Guidance subject to:
 - (a) consultation with the Leader on executive matters or
 - (b) consultation with the Chairman of Principal Scrutiny Committee on non-executive matters.

To Cabinet:

5. that discussions with neighbouring local authorities and external providers continue, to establish the best approach for introducing the e-petition scheme, either via the Council's website or through a third party host, by 15 December 2010, and a further report be made to Cabinet in due course.

To Principal Scrutiny Committee:

6. To consider whether to offer any comments or recommendations to the Leader, Cabinet or Council on the issues raised in this report.

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Report of Corporate Director (Governance)

1 Requirements of a Petition Scheme

- 1.1 Councils must adopt a scheme that sets out how it will acknowledge receipt of petitions and advise organisers about how it will be dealt with. The Act requires that the petition scheme define categories of petition, and sets a minimum number of signatures for each 'type' of petition.

These are as follows:

- (i) **Ordinary Petition** – treat as a petition anything which identifies itself as a petition, or which a reasonable person would regard as a petition (threshold of 10 signatures). The petition has to be considered by the most appropriate body e.g. Cabinet, portfolio holder decision notice, a scrutiny body, or a committee.
- (ii) **Petition requiring Debate** at Full Council – this must be referred to full Council for debate. The Council is able to set a threshold for the number of signatures that may 'trigger' this requirement. There is currently no requirement within the Constitution for a minimum number of signatures, although the usual practice is for petitioners to be asked to secure at least 10 signatures. Guidance suggests that the threshold for the new scheme should be no higher than 5% of the District's population. As this figure would be around 5,500, it would appear reasonable to set a threshold at a far lower level. Suggestions are made in the recommendations which have regard to the fact that Winchester has 1, 2 and 3 member wards with different size electorates.
- (iii) **Petitions to hold an officer to account** – the petition should name a senior officer. This would then require an appropriate scrutiny committee to question that officer about the matter(s) contained within the petition. A different threshold of signatures for this type of petition can be applied. The purpose of this provision is to allow the public to require named officers to attend to personally answer questions at a scrutiny committee. The Guidance says that this should only be

directed at senior officers – the recommendation being that in Winchester this should be Corporate Management Team and Heads of Teams reporting directly to the Chief Executive or Corporate Directors. The names and job titles then have to be listed on the website. However, the Act would still allow the Chief Executive to determine the most appropriate officer to attend the scrutiny committee if the petitioners specified the wrong officer.

- (iv) **Exempted petitions** – these include petitions covered by other procedures e.g. individual applications for Planning and Licensing Committees; the impact of the Local Development Framework (LDF) on individual sites, cases where there is a right of appeal; and under specific statutory procedures such as Elected Mayors. These are dealt with under existing procedures and are not entitled to the additional rights under the Scheme.

- 1.2 A petition must relate to a function of the Council, or to ‘an improvement in the economic, social or environmental well-being of the authority’s area to which any of the authority’s partner authorities could contribute’.
- 1.3 The Act also states that a petition may be signed by anyone who lives, works or studies in the District. A Council could allow a wider class of petitioners but this is not recommended until experience is gained of likely workloads arising from the Scheme.
- 1.4 The Council will be able to reject petitions that are considered to be vexatious, abusive or otherwise inappropriate.
- 1.5 Where a petition organiser is not satisfied by the actions taken by the authority in response to a petition, the Scheme must give a right of appeal to a relevant Overview and Scrutiny Committee. This body will review the decision(s) and action taken and make appropriate recommendations (eg to Cabinet or Council) where necessary.

2 Next Steps

- 2.1 Revisions are required now to Council, Cabinet and Overview and Scrutiny Procedure Rules. These could be to simply cross refer to a new Petitions Scheme, as appropriate. The Department of Communities and Local Government (DCLG) Model Scheme could be substantially adopted, taking account of any changes needed for local circumstances. (Appendix B refers). The changes would reflect the intention of the Act, and any decisions arising from this report, whilst still keeping the system straightforward for both the petitioner and the Council to operate.
- 2.2 This is important because the Council has always attempted to assist and encourage petitioners with a flexible approach to submissions.

- 2.3 On average, full Council has considered two petitions per year, over the past five years. The current local scheme (Appendix 1) allows more than one referral to full Council – as well as references to other bodies. The procedure under the Act allows only the more significant petitions the right to go to full Council, with direct reference to the appropriate body for other petitions. It is recommended that the Winchester procedures are streamlined and brought in line with this approach.
- 3 E-Petitions
- 3.1 The guidance indicates that this should be an on-line facility that allows anyone to set up and/or sign a petition on the Council's own system. E-petitions would be considered by the Council in the same way as 'traditional' petitions. There would of course need to be monitoring and control over content and mis-use.
- 3.2 The e-petitions requirements come into force on 15 December 2010 and officers have been discussing with neighbouring Councils and external providers, the best approach to facilitating a scheme, either via its website or through a third party host. A further report will be brought to Members in due course.

OTHER CONSIDERATIONS:

4 RELEVANCE TO SUSTAINABLE COMMUNITY STRATEGY AND CORPORATE BUSINESS PLAN:

- 4.1 The petitions scheme (and particularly the e-petitions element) will help deliver the following objective 'An efficient and effective Council' by providing an additional means of communicating with the Authority and raising matters of concern.

5 RESOURCE IMPLICATIONS:

- 5.1 Provided there is not a significant uptake of the new petition arrangements, resource implications are likely to be contained in existing resources. The situation will need to be kept under review.
- 5.2 However, the introduction of an e-petitions facility will have financial implications both for set-up and for ongoing maintenance costs. Officer time is less easy to quantify, although it is expected that there will be a requirement for the management of the process, likely to be predominately within the Democratic Services Team. Any costs for the provision of an e-petitions service will need to be approved growth through the budget setting process.
- 5.3 Local Authorities have been encouraged to support the development of sector-led best practice advice on e-petitions and the development of a set of e-petitions data standards. It is expected that this will be made available

in due course to support local authorities in their implementation of the e-petitions requirements. In the meantime, as mentioned above, the Council is liaising with neighbouring Councils etc.

6 RISK MANAGEMENT ISSUES

None, provided the e-petitions system is effectively monitored to avoid mis-use.

BACKGROUND DOCUMENTS:

Statutory guidance to support the petitions duty (includes a model petitions scheme)

<http://www.communities.gov.uk/publications/communities/dutyrespondpetitionguidance>

APPENDICES:

Appendix 1 – Council Procedure Rule 15 (existing)

Appendix 2 – DCLG Model Petitions Scheme

CAB2036 - APPENDIX 1**COUNCIL PROCEDURE RULE 15 (EXISTING)****15. PRESENTATION OF PETITIONS**

- (1) At any meeting of the Council (except the annual meeting) or any meeting of Cabinet, or of an overview and scrutiny committee, any member of the Council, or a local government elector for, or resident of, the area of the Council may present a petition on any matter in relation to which the Council has powers or duties or which affects the District.
- (2) The person wishing to present the petition shall give notice of his/her intention to do so to the Corporate Director (Governance) by 10am on the Thursday immediately preceding the Council meeting on the Wednesday at which the petition is to be presented (or the same timescale in working days should the Council meet on another day) and shall show him/her the petition. Where the person proposing to present the petition is not a member of the Council, the notice of intention to present a petition shall not be accepted unless the Corporate Director (Governance) has satisfied himself/herself that the petition is proper to be presented.
- (3) A petitioner shall have the choice of where he/she wishes the petition to be first heard. This may be at Council, or the relevant overview and scrutiny committee (as determined by the Corporate Director (Governance)), or Cabinet. The petitioner shall have the right to address the meeting he/she has selected, and also a later Council meeting, should the matter be referred there for final consideration.
- (4) If the petitioner wishes the petition to be first heard at Council, it shall, after being presented and following any initial discussion pursuant to (6) below, stand referred to the Cabinet or the appropriate overview and scrutiny committee, as directed by Council. In those circumstances, the petitioner shall not have the right to address either Cabinet or the appropriate overview and scrutiny committee, under the provisions of this Procedure Rule.
- (5) The presentation of a petition shall be limited to not more than five minutes and shall be confined to reading out, or summarising, the prayer of the petition, indicating the number and description of the signatories, and making such further supporting remarks relevant to the petition as the person presenting it shall think fit.
- (6) A period of up to 20 minutes shall be allowed for the Council to have an initial discussion following presentation of the petition, such period to be in addition to any supporting speech by the petitioner (which may be up to five minutes). A summary of that discussion will be included in the minutes of the meeting.

- (7) The number of petitions to be presented at any meeting of the Council, Cabinet or overview and scrutiny committee shall not exceed two.
- (8) The above procedures shall not apply in respect of planning development control or licensing applications, for which special arrangements exist with regard to public participation.

Model scheme

In order to demonstrate how the framework set out in the 2009 Act can translate in practice we have created a model scheme which local authorities can choose to adopt or adapt. The example below is based on an authority with a population of 150,000 and is the public facing information about their petition scheme published on their website. The model authority has chosen to respond to all the petitions it receives. Petitions which contain 1500 signatures will be debated by the full council and petitions which call for evidence from a senior officer, and have 750 signatures, will trigger that response. The model authority operates executive arrangements and has responsibility for education and housing functions – authorities which do not have responsibility for such functions may wish to modify some of the illustrative examples given. The model authority holds a full council meeting on a 6 weekly basis. [‘link’ indicates where the council’s webpage includes a link to related information]

Petitions

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

[insert address]

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

Petitions can also be presented to a meeting of the council. These meetings take place on a 6 weekly 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 [link to section on Full Council Debates] 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 acknowledgment 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. Further information on all these procedures and how you can express your views is available here [\[insert links\]](#)

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

*Overview and scrutiny committees are committees of councillors who are responsible for scrutinising the work of the council – in other words, the overview and scrutiny committee has 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.

Petition subject	Appropriate steps
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, as social landlord 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 [insert link].</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 social landlord and 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 crime and disorder overview and scrutiny committee to the issues highlighted in the petition.</p>

Under-performing schools	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.
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 committee 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.

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 [link to list of LAA 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 five minutes to present the petition at the meeting and the petition will then be discussed by councillors for a maximum of 15 minutes. 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 committee. A list of the senior staff that can be called to give evidence can be found here [insert link]. 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. The committee may also decide to call the relevant councillor to attend the meeting. 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 [insert details] 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 [insert details] 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 council's overview and scrutiny committee 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 committee 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 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 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.