

**To the Chair and Members of the
ELECTIONS AND DEMOCRATIC STRUCTURES COMMITTEE**

**LOCAL DEMOCRACY, ECONOMIC DEVELOPMENT, AND CONSTRUCTION ACT
2009 – APPROVAL OF A PETITION SCHEME**

EXECUTIVE SUMMARY

1. Further to the report considered by the Council at its Annual Meeting on 21st May 2010, this report seeks the Committee's approval of arrangements to ensure that the Council complies with a new duty to respond to petitions and put in place a scheme for handling petitions including e-petitions, as required by the Local Democracy, Economic Development and Construction Act 2009. The draft Petition Scheme will be considered by the Standards Committee on 23rd June 2010, prior to any formal recommendations being considered by the Full Council on 19th July 2010. In particular, the Committee's views are sought on the Model Petition Scheme produced by the Department for Communities and Local Government (DCLG) as set out in Appendix A to the report, and the options available within the areas of discretion, which allow the Council to tailor the Model Scheme to suit its own local needs, as summarised in paragraph 17 of the report.
2. The requirement to develop a petition scheme comes in to force from 15th June 2010 and the requirement to have an e-petition facility from 15th December 2010.

RECOMMENDATIONS

3. It is recommended that:
 - i) the Committee considers the requirements of a Petition Scheme based on the Model Scheme as set out in Appendix A to this report and submits a draft Scheme for approval by the Council on 19th July 2010, subject to the views of the Standards Committee from a probity perspective;
 - ii) subject to recommendation (i) above, a report be presented to Council on 19th July 2010 proposing the adoption of the above Scheme and requesting that the relevant parts of the Council's Constitution be updated to reflect the requirements of the Petition Scheme and the designation of the Scrutiny Manager as the authority's Scrutiny Officer under Section 31 of the Local Democracy Economic Development and Construction Act 2009;
 - iii) the requirement to develop an e-petition facility from 15 December 2010 be noted; and
 - iv) the Committee receives a further report on the e-petition facility options in due course.

BACKGROUND

4. At its Annual Meeting on 21 May 2010, the Council considered an outline report on the implications of the Local Democracy, Economic Development and Construction Act 2009 from a scrutiny perspective and resolved that the approval of a Petition Scheme by the Council be agreed following consideration by this Committee and the Standards Committee of the Model Scheme produced by the DCLG. The Council also resolved that the post of Scrutiny Manager be designated as the Authority's Scrutiny Manager for the purposes of Section 31 of the Local Democracy, Economic Development and Construction Act 2009, and noted the provisions within the Act in respect of the establishment of Joint Overview and Scrutiny Committees with two or more Local Authorities, if required.

PETITION SCHEME REQUIREMENTS

5. The authority must provide a facility for the making of electronic petitions by 15th December 2010 and provide a scheme for the handling of petitions by 15th June 2010. This scheme must be approved at a meeting of the Full Council and published on the Council's website. Any revisions to the scheme must also be approved by Full Council.
6. The Government has produced a model scheme, which has been modified in accordance with the areas of discretion identified in paragraph 17 of the report, a copy of which is attached at **Appendix A**.

Responding to the Petition

7. Any petitions submitted must be acknowledged within a period of time specified in the scheme and responses must give information about what the authority has done / plans to do in response. Responses must be published on the authority's website unless exempt from disclosure under the Local Government Act 1972. A petition may be declined by virtue of being vexatious, abusive or otherwise inappropriate.

Petitions Relating To Cross-Authority Functions

8. As a top-tier authority, the Council is also required to deal with petitions which relate to the functions of other partner authorities if they relate to the economic, social or environmental well-being of the authority's area. This includes petitions on matters which are cross-authority and may mean acting as a community advocate by lobbying a partner organisation or reviewing an issue.

Signatories

9. Anyone who lives, works or studies in the local authority area (including under 18's) can organise and sign a petition. Authorities are encouraged to respond to petitions submitted by individuals from outside of their area if they have an interest in their area (e.g. their children attend school there). The local authority may decide whether it wishes to impose a minimum number of signatures required to validate a petition.

Requirement to Debate at Full Council / Hold Officers to Account

10. The petitioner may request a petition be debated at a meeting of Full Council or may use a petition to call an Officer to account at Overview and Scrutiny. The local authority may determine whether or not to impose a minimum level of support for a petition required to trigger such action and may determine what this threshold will be. The Secretary of State has the authority to direct a Local Authority to amend their scheme if the thresholds are too high.

Petition Debated at Full Council

11. The authority would be required to debate a petition at Full Council where it reaches the requested threshold of signatures (e.g. a level set at no more than 5% of the population) and does not also request that an Officer to be held to account. The petition organiser must be given sufficient notice to be able to attend the meeting and given the opportunity to present the petition themselves.

Petition to Hold Officers to Account at Overview and Scrutiny

12. The authority is required to call an Officer to account at an Overview and Scrutiny meeting where a petition reaches the requested threshold of signatures. The Officer must be a relevant Officer (Scrutiny may decide that it is more appropriate for another Officer to be called instead and may recommend that the relevant Cabinet member also be called) and the request must relate to the discharge of functions for which the Officer is responsible.
13. The names and job titles of any Officers who are able to be called to account in this way should be included in the Petitions scheme. These should be the Head of Paid Service and other very senior Officers responsible for the delivery of services. Overview and Scrutiny will ultimately decide the seniority of the Officers to be held to account. Guidance on Overview and Scrutiny's conduct during the questioning of Officers is covered by the Local Government Act 2000.

Appealing Against the Authority's Response to a Petition

14. If the petition organiser is dissatisfied with the authority's response to a petition, they may request that Overview and Scrutiny review the adequacy of that response and make recommendations which could include arranging a review by Full Council.

OPTIONS CONSIDERED AND REASONS FOR RECOMMENDED OPTION

15. The authority must have a petitions scheme in place with an e-petitions facility by 15th December 2010; there are no alternative options available.
16. As referred to in paragraphs 5 to 14 above, there are certain matters which must be addressed within the scheme, however petitions relating to quasi-judicial matters such as Planning/Licensing or matters which already have a statutory appeals process or those made under any other enactment and which qualify under that enactment (e.g. petition requiring a local authority to hold a referendum on Executive arrangements) are excluded from the scope of the petitions duty and will therefore be dealt with under separate procedures.

Petition Scheme - Areas of Discretion

17. Whilst the 2009 Act requires petition schemes to meet some minimum standards in order to ensure minimum entitlements which all citizens can expect, beyond this small number of requirements local authorities have a high level of flexibility about how they approach the duty, leaving a lot of scope for local determination. Members' views are therefore sought on the following areas of the Scheme where there is scope for local discretion allowing Authorities to vary the Model Scheme to suit their specific needs (Officer recommendations shown in bold):

Issue	Options/Recommendations
Number of signatures required to recognise the submission as a petition.	It is recommended that a minimum number of 10 names be required for petitions to become valid. This is consistent with Schemes adopted by other Authorities.
Who can sign a petition?	<p>The Act states that 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.</p> <p>It is recommended that this criteria be adopted.</p>
<p>Timescales for:</p> <ul style="list-style-type: none"> • Acknowledging receipt of Petition • Notice of when a petition will be discussed at Overview & Scrutiny/Council • Petitioners wishing to attend and speak at a meeting (time limits) • Number of days in which to appeal to Overview & Scrutiny if not happy with the process. 	<p>It is recommended that all petitions be acknowledged within 10 working days of receipt. This is in line with the Model Scheme.</p> <p>It is suggested that 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 the petition organiser when and where the meeting will take place.</p> <p>It is recommended that, at Full Council debates, the petition organiser be given 5 minutes to present the petition at the meeting, followed by a discussion time of a maximum of 15 minutes. This time limit is consistent with the existing provisions within the Council Procedure Rules for members of the public speaking on deputations at Council Meetings.</p> <p>It is recommended that petition organisers are given a period of 10 working days from the date when a decision is issued on a petition in which to request that the Council's relevant Overview and Scrutiny Panel review the steps that the Council has taken in response to their petition.</p>

<p>Threshold level for triggering debates at Council or calling to account of a Chief Officer</p>	<p>The petitioner may request a petition be debated at a meeting of Full Council or may use a petition to call an officer to account at Overview and Scrutiny. The local authority may determine whether or not to impose a minimum level of support for a petition required to trigger such action and may determine what this threshold will be. Government guidance states that this should be no higher than 5% of the population but do encourage lower thresholds if appropriate.</p> <p>It is recommended that petitions containing more than 10,000 signatures will be debated by the Full Council. This figure represents 3.4% of the local population and is therefore lower than the Government's maximum guideline figure of 5%. It is also consistent with thresholds adopted by other authorities with comparable local populations to Doncaster.</p> <p>It is recommended that a minimum of 2,500 signatures should be required in order for a petition to trigger the calling to account of a Chief Officer. Again, this level is consistent with Government guidance and similar thresholds adopted by other local authorities.</p>
<p>Responsibility for rejecting a petition due to being vexatious/inappropriate</p>	<p>Members' views are sought as to whether this should rest with the Council's Monitoring Officer or a different Officer?</p> <p>It is recommended that this be the Monitoring Officer.</p>
<p>Number of petitions an individual can submit</p>	<p>Would it be appropriate to set a limit on the number of petitions an individual can submit in a given period?</p> <p>It is recommended that no individual should be permitted to present more than one petition in any six-month period.</p>

E-petitions System

18. Doncaster Council currently uses a software package which has been devised in-house to manage its Committee functions (this does not include software which supports the actual production of reports and agendas, it only makes them publicly accessible) and does not have an e-petitions system in place. Authorities are encouraged to consider how best to integrate their e-petitions process with existing on line functions (e.g. linking petitions to Council meetings or decisions).
19. The options for Doncaster Council in introducing an e-petitions system are:
 - Request IT to create an in-house package
 - Purchase an off-the-shelf e-petitions package
 - Purchase a full package to manage both the e-petitions function and all other committee functions

20. Officers will be exploring these options and report back on the outcome of this exercise to a future meeting.

IMPACT ON THE COUNCIL'S KEY OBJECTIVES

21.	Doncaster Priorities	Implications of this initiative
	Improving Neighbourhoods Together (Cross-cutting)	Addressing the perception in communities that people can't influence decisions that affect their local area, ensuring people know how they can voice their concerns about local issues and encouraging communities to get involved in local decision making in future.

RISKS AND ASSUMPTIONS

22. As petitions tend to focus on addressing localised issues, there is the potential for them to distract from major policy or priority issues. Members may wish to consider this when determining the signature thresholds for petitions requesting debates at Full Council or those calling Officers to account.
23. There is the opportunity for the Local Authority or individual elected Members to use the e-petitions facility as a means of gauging public opinion on certain issues.

LEGAL IMPLICATIONS

Constitutional Changes

24. Changes may need to be made to CPR (Council Procedure Rule) 2 to include the debating of petitions and OSPR (Overview and Scrutiny Procedure Rule) 7 to include appealing petition responses and holding Officers to account however nothing in the existing Constitution prevents this from happening already. CPR 13 refers specifically to petitions and deputations and should be updated to reflect some of the key requirements of the scheme.
25. Overview and Scrutiny can review the authority's response to a petition or 'can arrange' for Full Council to undertake a review. The term 'can arrange' makes it unclear as to whether O and S has the authority to ensure this takes place or simply to recommend it. However, CPR 2 (viii) permits Council *"to receive any reports from the Executive, Overview and Scrutiny and the Council's Committee's and receive questions and answers on any of those reports"*. Legal Services have advised that this terminology could be clarified in any Constitutional revisions which are made.
26. The Constitution should also be amended to clarify the procedures for establishing joint Overview and Scrutiny Committees and for clarifying the role of the designated Scrutiny Officer arising from the Local Democracy, Economic Development and Construction Act 2009.
27. Given the available timeframe for taking this issue through this Committee and seeking the views of the Standards Committee prior to Full Council approving the final Scheme, it is evident that the authority will not have a petitions scheme in place by the 15th June deadline. However, the risk of not meeting this statutory obligation is considered to be outweighed by the need to implement a scheme

which is fit for purpose and appropriate for local needs. This approach was supported by Full Council at the Annual Meeting held on 21st May 2010.

HUMAN RESOURCE IMPLICATIONS

28. Once the final scheme for handling petitions has been agreed, there will be a need to communicate these new arrangements to staff/partner organisations as appropriate to advise them of what they should do if they receive queries about petitions or are presented with one.
29. There may be further implications for officers who are held to account by Overview and Scrutiny and who may consequently need to be dealt with through other HR Policies and Procedures, for example, Discipline at Work or Capability.

FINANCIAL IMPLICATIONS

E-Petitioning

30. The viability of creating an e-petitions facility in-house is currently being explored with ICT. It is worth noting that Government does not consider that the acceptance of emailed petitions meets the requirement to provide an e-petitions facility.
31. Should an in-house solution not be possible, additional costs will be incurred. Initial quotes for providing the stand-alone e-petitions facility stand at approximately £5,000 for initial set up, then from between £500-£3,000 per annum in running costs and support. An initial indicative quote indicates that the cost of purchasing a full committee system (which includes the e-petitions software) is approximately £25,000, then £6,250 per annum for support and maintenance.
32. No additional budget has been identified and so any additional costs that might be incurred will need to be managed within existing Legal & Democratic Services budgets.
33. If a £25,000 software package is purchased, potentially this would be deemed to be capital related and a new project would need to be added to the capital programme. Additional funding would still need to be identified even if the project was added to the capital programme.

OTHER RESOURCE IMPLICATIONS

34. Due to the democratic nature of e-petitioning, it is suggested that the administration of the petitions function be undertaken within the Council's Legal & Democratic Services area.
35. Officer time would be spent checking and approving / rejecting / negotiating the content of, every new petition which is submitted and a written response would also need to be prepared by either the relevant Directorate or Lead Member. If petitions are to be reported to or debated at Full Council, Officer and Member time would be needed to facilitate this which could include additional meetings. There is also the potential impact on Officers petitioned to be held to account and a

further impact on Scrutiny workload if responses to petitions are challenged by the petitioner.

CONSULTATION

36. Government consultation has been undertaken with regards to the duty to respond to petitions and the statutory guidance on this new duty.
37. There will need to be an awareness raising process to ensure residents and other stakeholders are aware of the petition process and e-petition facility.

BACKGROUND PAPERS

38. Local Democracy, Economic Development and Construction Act, 2009;
39. Listening to Communities: Statutory guidance on the duty to respond to petitions, Department for Communities and Local Government, March 2010;
40. Report to Council – 21st May 2010.

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