

LOCAL DEMOCRACY, ECONOMIC DEVELOPMENT AND CONSTRUCTION ACT 2009 - PETITIONS

1 SUMMARY

- 1.1 From 15 June 2010 all Councils are required to respond to petitions received in accordance with a scheme established for the purpose. This report proposes a scheme based on the model contained in statutory guidance from the Department of Communities and Local Government (CLG) together with related amendments to the Council's constitution.

2 INTRODUCTION

- 2.1 Following consultation on draft statutory guidance and secondary legislation to support the "petitions duty" under the Local Democracy, Economic Development and Construction Act 2009, the Secretary of State made an Order on 19 March 2010 requiring all local authorities to establish a scheme for handling petitions made to the authority.

- 2.2 The scheme:-

- must be approved by a meeting of Full Council before it comes into force,
- be published on the Council's website and by any other method appropriate,
- can be amended at any time but the revision must be approved by Full Council and published in the same way and
- the authority must comply with its petition scheme.

3 REQUIREMENTS

- 3.1 CLG statutory guidance published on 30 March 2010 states that the minimum requirements for a scheme are 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
 - a facility for making electronic petitions is provided by the local authority (because of the difficulty of introducing an electronic facility at short notice, this element of the duty will not come into force until 15 December 2010.)
 - petitions must be acknowledged within a time period specified by the local authority

- among the many possible steps that the authority may choose to take in response to a petition, the following 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. This threshold can be determined locally, the model provides for 1500 signatures, but it must be no higher than 5 per cent 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. The model provides for 750 signatures
- petition organisers can prompt a review of the local authority's response if the response is felt to be inadequate.

4 THE SCHEME

- 4.1 A model scheme is included with the CLG guidance. This model has been used as the basis for a draft scheme although the table of examples of petition subjects and appropriate steps for the Council to take contained in the model has been omitted as tending to prejudge the outcome of such issues. The model has been adapted to provide for the introduction of a facility for e-petitions by 15 December 2010.
- 4.2 The draft is attached as an appendix to this report. If agreed, the Scheme will be incorporated into Part 5 of the Council's Constitution.
- 4.3 It will also be necessary to amend the Council Procedure Rules in Part 4 to provide for receiving petitions at ordinary meetings of the Council. To this end, it is proposed to add the following to those rules:-
- after paragraph 2(v)

“2(vi) receive petitions in accordance with the Council's petitions scheme contained in Part 5”.
 - after paragraph 10

“11 - Petitions

11.1 - Presentation of Petitions

A petition organiser or person acting on their behalf will be allowed a maximum 5 minutes to present a petition that has been properly submitted in accordance with the Council's petitions scheme.

11.2 - Petitions Requiring Debate

Petitions with the requisite number of signatories will be allowed a maximum 15 minutes for debate.

No more than 4 petitions will be set down for debate at any one ordinary meeting of the Council.

11.3 - Order of Petitions

Petitions will be presented in the order in which they are received unless the Chairman decides otherwise.

11.4 - Response to petitions following debate

The Council will decide how to respond to the petition at the meeting by either:-

- Taking the action requested in the petition
- Not taking the action requested for reasons put forward in the debate
- Commissioning further investigation into the matter or
- Deciding whether to make recommendations where the matter falls to the Executive to make the final decision

11.5 - Notification of Response

The petition organiser will receive written confirmation of the decision made and this will be published on the Council's website.”

- 4.3 The numbering of paragraphs in the Council Procedure Rules will require amending to accommodate the above.

5 FINANCIAL IMPLICATIONS

- 5.1 The government acknowledges that costs will arise from increased work for officers, time at council meetings and overview and scrutiny committees, and set up costs for e-petitions.

- 5.2 Local authorities will each receive a grant for 2010/11. This amount will vary by local authority dependent on the local population and has yet to be determined. CLG state that it expects funding for future years to be incorporated into the revenue support grant.

6 LEGAL IMPLICATIONS

- 6.1 The Council is under a statutory duty to introduce a scheme for petitions. It will be necessary to review the scheme later in the year with regard to e-petitions.
- 6.2 It is likely that the level of compliance with CLG guidance will form part of the Audit Commission's inspection regime.

7 RECOMMENDATION

- 7.1 It is proposed that the Executive **RECOMMENDS** to Council that
- (1) the petitions scheme appended to this report be adopted
 - (2) the Constitution is amended as outline in this report and
 - (3) the scheme is reviewed by December 2010.

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Background Papers:-

None

For further information please contact John Honey on:-

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If you would like this report in large print, Braille or another language please contact 01702 546366.

Petitions

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 how the petition is to be dealt with. 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:-

The Member Services Manager, Rochford District Council, Council Offices, South Street, Rochford, Essex SS4 1BW

Or, from 15 December 2010, in electronic form if created, signed and submitted online by following a procedure to be introduced for the purpose and to be set out on the Council's website.

Petitions can also be presented to a meeting of the Council. These meetings take place on a regular basis and dates and times are published by Notice and on the Council's website. To present a petition to the Council in person, or to request your Councillor or someone else to present it on your behalf, please contact our Member Services team on 01702 546366 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 be scheduled for debate at Full Council in any event. If this is the case we will let you know whether this will happen at the same meeting you present your petition or at 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
- what action the petitioners wish the Council to take
- the name and address and signature of the persons 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 Council's 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 and the matter will be dealt with accordingly. Further information on all these procedures and how you can express your views is available on our website.

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.

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 Review Committee*
- calling a referendum
- writing to the petition organiser setting out our views on the request in the petition

*The Review Committee is an overview and scrutiny committee of Councillors who are responsible for scrutinising the work of the Council – in other words, the Review Committee has the power to hold the Council's decision makers to account.

In addition to these steps, the Council will consider what specific actions are available to address the issues highlighted in a petition.

The Council's response to a petition will set out the steps we intend to take and the reasons for taking this approach.

If the petition is about something over which the Council has no direct control 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 the 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 on our website.

If the 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 ordinary meeting although on some occasions this may not be possible and it will then be referred to the next 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. It 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 the decision. This confirmation will also be published on the Council's website.

Officer evidence

A 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, the 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 Review Committee. The senior officers that can be called to give evidence are those officers who are members of the Council's Senior Management Team. Their details can be found on the Council's website.

The Review Committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in a petition, for instance if the named officer has changed jobs. The committee may also decide to call the relevant Portfolio Holder to attend the meeting. Committee members will ask the questions at this meeting, but the petition organiser will be able to suggest questions to the Chairman of the Committee by contacting the Council's Overview & Scrutiny Officer at the above address or on 01702 546366 up to three working days before the meeting.

E-petitions

The Council intends to introduce e-petitions by 15 December 2010. These will be created and submitted through the Council's website. E-petitions will follow the same guidelines as paper petitions.

The petition organiser will need to provide us with their name, postal address and email address and will also need to decide how long the petition is to be open for signatures. Most petitions are expected to run for six months, but you will be able to choose a shorter or longer timeframe, up to a maximum of 12 months.

We expect the following to apply to our e-petitions;

- 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 our Member Services team. 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 Member Services as above 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.
- All the e-petitions currently available for signature will be on our website.
- 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 Review Committee review the steps that the Council has taken in response to your petition. The petition organiser must give a short explanation of the reasons why the Council's response is not considered to be adequate.

The Committee will endeavour to consider the 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 the Council has not dealt with the 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.