

**REPORT TO THE MEETING OF THE EXECUTIVE 17 FEBRUARY 2010**

**PORTFOLIO: OVERALL STRATEGY & POLICY DIRECTION**

**REPORT FROM CHIEF EXECUTIVE**

**SUBJECT: LISTENING TO COMMUNITIES: CONSULTATION ON DRAFT STATUTORY GUIDANCE ON THE DUTY TO RESPOND TO PETITIONS**

**1 DECISION BEING RECOMMENDED**

- 1.1 To endorse the comments outlined in Appendix B as the Council's response.

**2 REASON/S FOR RECOMMENDATION**

- 2.1 To ensure the Council submits comments on the Consultation Draft Guidance by the deadline of 24 February 2010.

**3 ALTERNATIVE OPTIONS CONSIDERED**

- 3.1 Not to submit a response.

**4 OTHER SALIENT INFORMATION**

- 4.1 The Local Democracy, Economic Development and Construction Act 2009 contains a duty on local authorities to respond to petitions. The Government have now produced a consultation setting out the draft statutory guidance and secondary legislation underpinning the duty. Subject to the feedback received, the intention is then to finalise the statutory guidance and model scheme which will underpin the petitions duty placed on Councils through this legislation.
- 4.2 The draft guidance sets out the petition scheme and includes a draft model scheme. It also provides details as to how petitions should be processed and debated, giving evidence in response to a petition and what officers are covered by that duty, and lastly, the appeal and review process if petitioners feel that the Council's response is inadequate. Relevant extracts from the draft guidance are attached as Appendix A.
- 4.3 The consultation raises a series of questions for local authorities to respond to and the officers' response, for Members' consideration and endorsement, is attached as Appendix B.

**5 RISK IMPLICATIONS**

- 5.1 The guidance as outlined contains both reputational and procedural risks for the Authority in terms of its handling of petitions. It also has resource

implications in terms of the process outlined and prescribing how petitions should be dealt with.

- 5.2 It should be noted that matters relating to any planning decision, including issues relating to any development plan, are excluded from the processes as outlined, as is any matter relating to a licensing decision or any matter relating to an individual or entity for which there are other mechanisms of review or appeal contained in legislation. Similarly petitions seeking a referendum for an elected mayor are excluded from the procedure, along with petitions which an Authority deems to be vexatious, abusive or inappropriate, although limited guidance is given in respect of the interpretation of those definitions.

I confirm that the above recommendation does not depart from Council policy and that appropriate consideration has been given to any budgetary and legal implications.

SMT Lead Officer Signature: \_\_\_\_\_

**Chief Executive**

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**Background Papers:-**

None

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# Chapter 1

## The petition scheme

### Key principles:

- ensuring that local people know how to express their views
- local authorities will take action to respond to petitions
- local people know that their views have been listened to
- keeping prescribed requirements on councils to a minimum, and
- building on local authority best practice

### Key outcome:

**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 in response.**

## Overview

7. The petitions duty in the Local Democracy, Economic Development and Construction Act 2009 means that for the first time councils will be required to respond to petitions and tell local people what action is going to be taken to address their concerns. Petitions can no longer be ignored because they raise a difficult or challenging issue in the local area.
8. Government believes that local authorities should approach their petition scheme from the starting point of responding to all the petitions they receive. Petitions are an important tool for local people to raise concerns with their locally elected representatives and we expect petitions to trigger action where appropriate. This guidance includes examples of the responses local authorities should consider in four key areas, under-performing schools, alcohol related crime and disorder, under-performing health services and anti-social behaviour.
9. The model scheme at Annex A demonstrates these principles by setting out that all petitions, regardless of the number of signatures, will receive a response providing they follow the guidelines set out in the scheme. The model scheme also gives details about the types of action the 'model' local authority will take in response to petitions on key areas of concern.

## Summary of requirements

10. The Local Democracy, Economic Development and Construction Act 2009 requires all principal local authorities in England to establish a scheme for handling petitions made to the authority.
11. The scheme:
  - must be approved by a meeting of the full council before it comes into force
  - must be published on the principal local authority's website and by any other method appropriate for bringing it to the attention of those who live, work or study in its area
  - can be revised at any time but the revised scheme must be approved and publicised as detailed above
  - the authority must comply with its petition scheme
12. 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.
13. The requirements 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 principal local authority may choose to take in response to a petition, the following steps must be included 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 be no higher than 5 per cent of the local population (see Chapter 2)
  - 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 (see Chapter 3)
  - petition organisers<sup>6</sup> can prompt a review of the local authority's response if the response is felt to be inadequate (see Chapter 4)
14. The requirements listed above are the minimum set by the 2009 Act. Local authorities are encouraged to consider designing a scheme which is wider than these requirements, for example, responding to petitions from those who do not live, work or study in the local area or e-petitions which are not made through the authority's own e-petition facility.
  15. Section 18 of the 2009 Act clarifies that local authorities can include other information which they consider to be appropriate in their petition scheme. For example, details about how they handle petitions which do not qualify under the scheme or which apply to the functions of another principal local authority, particularly in areas with two tiers of local government.
  16. Once published the local authority must comply with its petition scheme but can revise it at any time by taking the steps set out in Section 11 of the 2009 Act.

## Designing a petition scheme

17. Principal local authorities, when designing their petition scheme, are expected to
  - take into account local circumstances to ensure that the scheme is locally appropriate; for example, *the same thresholds set in a densely populated urban area may not be suitable for a rural authority*
  - ensure that the scheme is accessible to all; for example, *an authority could decide to promote its petition scheme as part of its responsibility to promote understanding of the council under the requirements of the duty to promote democracy, the e-petitions facility is compliant with web accessibility standards*
  - ensure that the process is easy for citizens to use; for example, *that the scheme sets thresholds which are achievable for petitions on very local, as well as authority wide, concerns, no previous knowledge of council procedure is needed in order to submit a petition, the scheme is written in Plain English, people know what they have to do in order to receive a response*

<sup>6</sup> "petition organiser", in relation to a petition made to a principal local authority, means—

(a) the person designated in the petition as the person with whom the authority may deal in relation to the petition, or  
 (b) such other person as agrees with the authority to be the person with whom the authority may deal in relation to the petition;

18. Government expects any thresholds which local authorities decide to set to be locally achievable. We expect that where practical local authorities will set low thresholds, such as those used in the model scheme at Annex A. The model scheme takes the approach already used by some local authorities of setting no threshold for triggering a response to a petition. This means the 'model' local authority responds to all the petitions it receives, providing that the petition follows the guidelines set out in the scheme i.e. the petition is not discriminatory or about an excluded matter such as a planning decision.
19. Local authorities should also consider whether variable thresholds would be appropriate to their local circumstances. For example, top tier authorities might consider what appropriate thresholds might be set for matters specific to each of their constituent district areas. Government expects local authorities' petition schemes to ensure that petitions on very local issues, such as anti-social behaviour in a particular street, will receive a response from the council. Setting no threshold, or thresholds which vary depending on the issue or geographic location affected might be one method of achieving this.
20. Thresholds can be reviewed after a period of activity and amended if necessary provided the process set out in paragraph 11 and Section 11 of the 2009 Act is followed. Should it become apparent that a principal local authority, or authorities, are setting requirements which are unachievable, the Secretary of State has the power to direct the principal local authority, or authorities, to amend their petition scheme.
21. The model petition scheme at Annex A can be used by local authorities as a starting point and guide as to how a scheme might operate. Principal local authorities may choose to adopt this scheme as a whole or amend it to reflect local circumstances.

## Responding to petitions

22. As a minimum, a local authority's petition scheme must apply if a petition:
  - calls for the authority to take action
  - is signed by the requisite number of people who live, work or study in the local area
  - is made under another enactment but does not qualify under that enactment (see paragraph 33)
  - If made electronically, is made through the authority's e-petition facility

### **Verification of signatures and acknowledgement**

23. Local authorities can choose to verify the signatures given on a petition should they wish. Authorities must take account of the signatures of people who provide valid addresses where they live, work or study within the local authority area; but authorities may take account of signatures of people who do not supply such information, or supply information which shows that they do not live, work or study in the area.
24. In the case of e-petitions the local authority must decide what counts as an authentic signature, for example it might decide that a valid email address is sufficient, a valid postcode or both.
25. All petitions which meet the scheme criteria (see Section 12(1) of the 2009 Act) must be acknowledged within the period specified in the authority's scheme.

### **Relevant matters**

26. Petitions are a valuable opportunity for local authorities to demonstrate strong leadership on issues of concern to the community. As community leaders and place shapers local authorities have a key interest in issues which, although wider than their functions, affect the local area. In view of this, and their role in the local area agreement process, Section 14(2)(b)(ii) of the 2009 Act requires top tier authorities to respond to petitions which relate to an improvement in the economic, social or environmental well-being of the authority's area to which any of its partner authorities could contribute. This means that these local authorities 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.
27. In practice, this may mean acting as an advocate for the local community, working with partners to resolve the issue, lobbying a partner organisation on behalf of the community or instigating an overview and scrutiny review of the issue.
28. Should a petition of this sort call for something which goes against council policy a principal local authority may choose to say 'no' to the request. However, to ensure the step taken in response to the petition is substantive a local authority must clearly explain their position in their response.

### **Exclusions**

#### ***Vexatious, abusive or otherwise inappropriate***

29. Local authorities should approach the petitions they receive positively and not assume that the motivation is one which is vexatious, abusive or inappropriate. However, petitions, which are in the opinion of the authority vexatious, abusive or otherwise inappropriate, do not qualify under the Section 14 requirement to take steps in response to the petition. Principal local authorities must acknowledge these

petitions, as set out in Section 13 of the 2009 Act, and this acknowledgement should explain why the authority will not be taking action.

30. When considering whether a petition is vexatious a principal local authority should use as a starting point the guidance under the Freedom of Information Act 2000. Guidance to the Act states that *“Deciding whether a [Freedom of Information] request is vexatious is a flexible balancing exercise, taking into account all the circumstances of the case. There is no rigid test or definition, and it will often be easy to recognise. The key question is whether the request is likely to cause distress, disruption or irritation, without any proper or justified cause”*<sup>7</sup>. In most circumstances it should be the subject matter of the petition, rather than the personality of the petitioners or the manner in which the issue is supported, that is the deciding factor.
31. It is important that petitions which are abusive or otherwise inappropriate are also identified at this stage. Particular care must be taken when considering petitions which call for an officer to give evidence under Section 16 of the 2009 Act that these petitions relate to the role of the individual in delivering public services and not matters relating to an officer’s personality or private life.
32. The types of petitions which local authorities may consider inappropriate include those relating to matters which are part of ongoing legal proceedings or which target individual members of a community. However, the decision on what constitutes an inappropriate petition is ultimately for the local authority to decide considering the circumstances of the individual case.

### ***Petitions under other enactments***

33. Petitions made under other enactments, such as petitions under the Local Government Act 2000 asking for referendum on whether the area should have an elected mayor, should be dealt with according to the procedures set out in those enactments. If such a petition fails to meet the requirements of the enactment in question, for example a petition under the 2000 Act does not achieve the requisite number of signatures, it should be addressed through a local authority’s petition scheme in exactly the same manner as any other petition.

### ***Matters excluded by order***

34. In order not to duplicate procedures where established processes exist for communities to have their say Government has excluded the following matters from the scope of the petitions duty (see Annex B for draft order):
  - any matter relating to a planning decision, including about a development plan document or the community infrastructure levy

<sup>7</sup> [http://www.ico.gov.uk/upload/documents/library/freedom\\_of\\_information/detailed\\_specialist\\_guides/wareness\\_guidance\\_22\\_vexatious\\_and\\_repeated\\_requests\\_final.pdf](http://www.ico.gov.uk/upload/documents/library/freedom_of_information/detailed_specialist_guides/wareness_guidance_22_vexatious_and_repeated_requests_final.pdf)

- any matter relating to a licensing decision, including licensing applications under the Licensing Act 2003 and the Gambling Act 2005
  - any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment
35. However, failure to deliver services in these areas remain within the scope of the duty. For example, a petition on an individual planning application is excluded from the duty but a petition about the local authority's failure to deliver an effective service for planning applications would be within scope.
36. When in receipt of a petition on an excluded matter a principal local authority should acknowledge receipt of the petition and explain why the matter is not covered by the authority's petition scheme. If the petition can be taken into account as part of existing procedures, the authority should explain how this will happen. If the petition cannot be taken into account as part of these procedures a principal local authority should explain the existing arrangements for communities to have their say as part of the process in question.

### Appropriate steps

37. Principal local authorities are required to take appropriate steps when responding to the petitions they receive. A local authority's response should be proportionate to the seriousness of the issue and the level of support contained in the petition. The actions referred to above (see paragraph 13) and in Section 14(6) of the 2009 Act need to be among those considered but should not be regarded as the only options. Government encourages authorities to be innovative when considering their response to petitions, **including considering any courses of action open to them that are specific to the subject of the petition.**
38. Examples of appropriate steps local authorities should consider in response to specific subjects are included in the table below:

Petition subject	Appropriate steps
Alcohol related crime and disorder	If a local authority receives a petition about alcohol-related crime or disorder, Government expects them to fully consider with their partners the range of options available to them including considering the case for establishing a designated public place order or, as a last resort, establishing and imposing an alcohol disorder zone covering the relevant area.

Anti-social behaviour (ASB)	<p>As the elected representatives of the local area, and often as social landlord and licensing authority, local councils have a significant role to play in tackling anti-social behaviour. Recently crime and disorder reduction partnerships, of which local authorities are a constituent member, have been challenged to set minimum service standards and publicise these to their local communities by March 2010. The police and many local authorities also have a target to increase public confidence that the police and council are working together to deal with crime and ASB issues that matter most locally. As such, when responding to petitions on ASB, local authorities are expected to consider, in consultation with local partners, all the options available to them including the wide range of powers and mechanisms they have to intervene as part of these roles. They should, for example, work with the neighbourhood policing team in the affected area to identify what action might be taken, consider identifying a dedicated contact within the council to liaise with the community, Registered Social Landlords and other neighbourhood partners on issues of ASB in the area in question and, where appropriate, 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	<p>Local authorities are expected to consider, in consultation with local partners, all the options available to them when working with schools to secure their improvement. For example, on behalf of the local authority, the school improvement partner (SIP) will play a pivotal role, challenging and brokering support for poorly performing schools. Where a school is under performing the local authority should 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 local authorities, 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 include; 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	Local authorities are expected to 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 health overview and scrutiny committee should also be alerted to the petition and where the matter is sufficiently or potentially serious, the issue should be referred to them to consider for review.
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39. The local authority must notify the petition organiser of the steps it intends to take and publish this notification on the authority’s website.

## E-petitions

40. The 2009 Act applies the same requirements to electronic petitions as to paper petitions, except for the following:
- principal local authorities are only required to respond to e-petitions made through their e-petition facility
  - principal local authorities must decide, when a request to host an e-petition is received, whether the petition is appropriate for publishing on their facility
  - principal local authorities will decide what equates to a signature on an e-petition (see paragraph 24 above and also Section 12(3)(b) of the 2009 Act)
  - Principal local authorities are required to provide a facility for people to submit petitions to the authority electronically. In addition to this, local authorities can choose to respond to e-petitions submitted by other means and should indicate in their petition scheme how they will deal with these types of petitions.
41. A local authority’s petition scheme must secure that the authority’s e-petition facility allows citizens to create a petition which can be published online and made available to others for electronic signature. Government does not consider that mere acceptance of emailed petitions meets this requirement.
42. Local authorities should consider how best to integrate their e-petition process with relevant online information and existing online functions, for example, linking petitions to council meetings or decisions, to the minutes or webcast of the relevant meeting, to online forums and most importantly, to the authority’s published response to the petition.
43. When taking the decision whether to host an e-petition principal local authorities should, in addition to following the guidance above on vexatious, abusive and otherwise inappropriate petitions, consider those issues pertinent when publishing

any information of their website. For example, issues such as data protection, libel and the statutory requirement, as a public body, to comply with equalities and anti-discrimination legislation<sup>8</sup>.

44. Under Section 10 (2) of the 2009 Act principal local authorities are required to give reasons should they decide not to host an e-petition. This will allow petitioners an opportunity to amend and resubmit their petition.
45. Further sector led best practice guidance on e-petitions will be available, including practical advice for selecting and setting up an e-petitions facility and a set of recommended data standards.

<sup>8</sup> Section 33 of the Equality Act 2006 for sets out a list of “equality enactments” covering equalities and anti-discrimination legislation

# Chapter 2

## Petition debates

**Key principle:**

**Local people know that their views have been listened to and they have the opportunity to hear their local representatives debate their concerns.**

**Key outcome:**

**Local people will know that if they can get the number of signatures specified in their council's petitions scheme, they will be guaranteed a public, full council debate on their concerns.**

46. A systematic review of evidence on empowerment found that when petitions are linked with decision making there are increased levels of empowerment<sup>9</sup>. Section 15 of the 2009 Act therefore requires that petitions which receive a significant level of support should be debated at a meeting of the full council. Principal local authorities are required to set out in their petition scheme the number of signatures needed to trigger a debate as part of the authority's response. This debate may be added to the agenda of a normal meeting of the full council.
47. Where a petition receives the required level of support to trigger a council debate the council should also consider what other steps they should take in order to ensure their response is adequate (see Chapter 4 – Petition Reviews). A debate alone may not be considered a sufficient response to a petition with this level of support.

### The debate

48. The principle behind a petition debate is the increased transparency of the local decision making process. Therefore the petition organiser should be informed in writing about when the debate will be held and with sufficient notice to enable their attendance. This notification should also be published on the authority's website.
49. Petitioners should be offered the option of presenting their petition to the council at the beginning of the debate. Principal local authorities should also consider what other contribution the petitioners might make to the discussion, for example, answering questions put by councillors.

<sup>9</sup> *Empowering communities to influence local decision making – A systematic review of the evidence*, Communities and Local Government 2009, <http://www.communities.gov.uk/publications/localgovernment/localdecisionreview>

50. The debate should conclude with a decision being taken by the full council. This could be a decision 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. In line with the principle that local authorities should listen to the people they represent, and give them feedback, the petition organiser should then receive written notification of this decision. The notification should also be published on the local authority's website.

## Setting the threshold for debates

51. Local authorities are required to set a threshold for triggering a full council debate and to include this information in their petition scheme. We recommend where practical, that local authorities set low thresholds, such as those used in the model scheme at Annex A, at the outset. These thresholds can be reviewed after a period of activity and amended if necessary provided the process set out in paragraph 11 and Section 11 of the 2009 Act is followed. If, for example, no debates were triggered in the space of a year, a local authority should review their threshold and consider lowering it in order to ensure that it is locally achievable.
52. Should it become apparent that a local authority, or authorities, are setting requirements which are unachievable, the Secretary of State has the power to direct a principal local authority, or authorities, to amend their petition scheme.
53. The draft order at annex B stipulates that the absolute maximum threshold which can be set is 5 per cent<sup>10</sup> of the local population. We expect that in most cases a much lower figure will be considered locally appropriate. The maximum figure should be calculated using the estimate of the population of the area of the authority contained in the Registrar General's population estimates for England and Wales published by the Office of National Statistics. The threshold should be expressed in the scheme as a simple figure so that people know the number of signatures they need to trigger a debate (see model scheme at Annex A for an example).

## Exclusions

54. An authority is not required to hold a debate in response to any petition which falls outside the scheme, for example because it is vexatious, or relates to a licensing or planning decision. Petitions calling for evidence from an officer are also excluded from the requirement to hold a debate.

<sup>10</sup> The 5 per cent maximum threshold is a proxy figure, easy for local authorities to calculate, but not directly related to the number of people eligible to sign a petition.

# Chapter 3

## Giving evidence

### Key principle:

Local people know that their views have been listened to.

### Key outcome:

Local people have the right to petition for a senior member of council staff to attend a public meeting of the council's overview and scrutiny committee. If enough people sign the petition, a senior officer will have to attend the meeting, answer the committee's questions and explain how they are delivering public services.

55. Principal local authorities' petition schemes must allow for petitions to trigger a senior member of council staff to attend a meeting of the authority's overview and scrutiny committee and answer questions about their work. This builds on existing powers of overview and scrutiny committees who can already require members and officers to attend a meeting of the committee and give evidence. It is based on the principle that local government should be as transparent as possible and that officers are accountable to elected members. It allows members of the local community to make use of petitions to influence the way that this scrutiny takes place.

## Existing guidance

56. Guidance<sup>11</sup> under the Local Government Act 2000 is already in place to cover the way in which overview and scrutiny committees should conduct themselves when questioning an officer of the local authority – including, for example, considering the appropriate seniority of witnesses to ensure that junior officers are not put under undue pressure, and restricting questions to matters of fact and explanation.

## Setting an appropriate threshold

57. Local authorities must consider the detail of how these provisions should work in the broader context of their petition scheme. An authority's petition scheme must specify how many signatures will be needed to require an officer to attend a public hearing.

<sup>11</sup> *New council constitutions: guidance to English Authorities*  
<http://www.communities.gov.uk/documents/localgovernment/pdf/155181.pdf>

58. Local authorities should consider a suitable threshold according to local circumstances. While local authorities will need to ensure that the level of support is appropriate for the steps triggered, thresholds should be achievable and expressed as a simple figure so that people know the number of signatures needed to trigger this type of response.
59. Again, we recommend where practical, that local authorities set low thresholds, such as those used in the model scheme at Annex A, at the outset. These thresholds can be reviewed after a period of activity and amended if necessary provided the process set out in paragraph 11 and Section 11 of the 2009 Act is followed. If, for example, no such evidence sessions are triggered by petition in the space of a year the local authority should consider the reasons for this including, for example, the level of public awareness of the scheme and whether the threshold set may be too high.
60. Should it become apparent that a local authority, or authorities, are setting requirements which are unachievable, the Secretary of State has the power to direct a principal local authority, or authorities, to amend their petition scheme.

## Officers to which section 16 applies

61. Principal local authorities must determine which of their officers are able to be called to account in this way and include these details in their petition scheme. This information should include the names and job titles of the officers in question. In order for petitions to have a meaningful impact petitioners must be able to call on the most senior officers to attend meetings and give evidence. Section 16(5) of the 2009 Act therefore requires that, as a minimum, petition schemes provide that the head of paid service – often known as the chief executive of the authority – and the most senior officers responsible for the delivery of services can be required to provide information on their activities at public meetings of overview and scrutiny committees. Petition schemes should apply to senior officers responsible for delivering council functions and public services and not junior members of staff.

## Appropriate officer

62. As now, the final decisions on which officer should attend, and the questions to be asked of him or her, rest with the overview and scrutiny committee. Under Section 16(10) of the 2009 Act overview and scrutiny committees can decide that for the purposes of addressing the concerns raised in a petition it is more appropriate for another officer to be called to attend instead.

## Giving 'grounds'

63. It is essential that the scrutiny prompted by petitions is appropriate and fair to the officers involved. They must not be exposed to inappropriate public scrutiny of their private lives, nor to harassment or bullying. To safeguard officers, Section 16 of the 2009 Act stipulates that the 'grounds' given in the petition for attendance at a meeting of the overview and scrutiny committee must relate to their job – it cannot relate to their personal circumstances or character. An officer is not required to attend a meeting of the overview and scrutiny committee to give evidence if the petition calling for the attendance is deemed to be vexatious, abusive or otherwise inappropriate by the local authority.

## Reporting

64. A principal local authority should inform the petition organiser when the overview and scrutiny meeting will take place with sufficient notice to enable them to attend. In any case where the subject of the petition is likely to lead to the discussion of confidential information, and therefore a resolution under the provisions in Part 5A of the Local Government Act 1972 to hold any part of the meeting in private, the reasons and process should be made clear in this notification. This notification should also be published on the local authority's website.
65. After the relevant person has appeared before the overview and scrutiny committee, the committee must make a report or recommendations to the authority (under its existing powers) and send a copy of that report or recommendations to the petition organiser. If appropriate, the report could also be published on the authority's website.

# Chapter 4

## Petition reviews

**Key principle:**

**That local people know that their views have been listened to.**

**Key outcome:**

**Petitioners will be able to appeal to the council's overview and scrutiny committee if they feel the response from their council is not adequate.**

66. Section 17 of the 2009 Act is essentially an appeal provision. If a petition organiser is not satisfied with the way an authority has dealt with a petition, this section gives the organiser the power to ask an overview and scrutiny committee to review that authority's response to the petition. The overview and scrutiny committee will decide whether the steps taken by the executive in response to the petition were adequate. Considering petition appeals can help raise public awareness of the important role of overview and scrutiny.
67. The overview and scrutiny committee will bear in mind the list of potential steps which could be used to respond to the petition, listed in Section 14(6) of the 2009 Act. An adequate response is likely to be proportionate to the issue set out in the petition and the level of support the petition has received. High quality responses which take people's concerns seriously should lower the volume of appeals.
68. There may be petition organisers who appeal because the action their petition calls for is rejected, no matter how thorough the council's process for coming to that decision. Appeals of this sort should not be onerous providing the principal local authority keeps records of how they have decided to respond to each petition.
69. If the committee has reason to be concerned about the adequacy of the authority's response it may decide to carry out a full review of the issues raised in the petition using their powers under the Local Government Act 2000.

## Triggering a meeting of the full council

70. If the overview and scrutiny committee is very concerned – for instance if the committee thinks that the authority is seriously neglecting its responsibility to listen to local people – under Section 21(3)(b) of the Local Government Act 2000 the committee can arrange for the full council to carry out the review function. That is to say the overview and scrutiny committee can arrange for the authority's response to the petition to be discussed at a meeting of the full council.

## Publicising the outcome of the review

71. Under s.17(4)(b) of the 2009 Act the principal local authority must inform the petition organiser of the results of the review and s. 17(4)(c) requires that the results are also published on the authority's website. Local people will therefore be able to see how many petition organisers appeal against their council's response to petitions compared to other councils – and read the response to the appeals. People will therefore be able to judge for themselves how seriously their council is taking community petitions.

### Consultation questions – Main guidance:

**Question 1:**

Does the guidance clearly set out the key principles and requirements of the petitions duty?

**Question 2:**

Are there any existing areas in the guidance which require further clarification?

**Question 3:**

Are there any additional areas which you feel this statutory guidance should cover? If so, please state what they are and why you feel they should be included.

**Question 4:**

Are there any additional areas which, while not appropriate for statutory guidance, you would like to see covered by sector-led guidance?

**Question 5:**

Are there any areas covered in this statutory guidance which you feel would be more appropriately covered in sector-led guidance? If so, please state what they are and why you feel they should be addressed in this way.

# Annex A

## Draft 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. [‘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 14 days of receipt. This acknowledgement will set out what we plan to do with the 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 monthly 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 to present it on your behalf, please contact [insert name] on [insert phone number] at least 5 working days before the meeting and they will talk you through the process.

### 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. 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 14 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	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.

Petition subject	Appropriate steps
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 <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 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, 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	<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 (SIP) 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>

Petition subject	Appropriate steps
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 aim to make 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. It 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 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. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

**SUBJECT: LISTENING TO COMMUNITIES: CONSULTATION ON  
DRAFT STATUTORY GUIDANCE ON THE DUTY TO RESPOND TO  
PETITIONS**

**Question 1:**

Does the guidance clearly set out the key principles and requirements of the petitions duty?

There is a lot of detail in the guidance which if anything, seems over prescriptive and formally introduces yet more process.

**Question 2:**

Are there any existing areas in the guidance which require further clarification?

Despite the level of detail overall it would be useful if the guidance could elaborate on the issues of vexatious, abusive or otherwise inappropriate in terms of petitions.

**Question 3:**

Are there any additional areas which you feel this statutory guidance should cover? If so, please state what they are and why you feel they should be included.

Not particularly.

**Question 4:**

Are there any additional areas which, while not appropriate for statutory guidance, you would like to see covered by the expert practitioners in their sector-led guidance?

Is sector-led guidance really necessary?

**Question 5:**

Are there any areas covered in this statutory guidance which you feel would be more appropriately covered by the expert practitioners in their sector-led guidance? If so, please state what they are and why you feel they should be addressed in this way.

Not particularly.

**Question 6:**

Do you think the model scheme is clearly expressed and easy for people to use? Please explain your reasons.

On one level it is very prescriptive but there is concern as to its practical application and resource implications, which do not appear to have been thought through or

tested. For example, the guidance states that if a petition does not identify a petition organiser, the Authority should contact signatories to the petition to agree who should act as petition organiser. Petitions by the very nature can contain tens or hundreds of signatories. Is the Authority meant to contact everyone if there is no stated petition organiser. Also, where the petition related to something over which the Council has no direct control or responsibility, why should the petition not be simply forwarded onto the appropriate body and the petitioners advised of that fact. What happens with regard to petitions directly prompted by legislative changes or decisions by Government.

**Question 7:**

Do you think the standards set out in the model scheme are achievable and appropriate to citizens' expectations?

There is concern whether the practicalities and resource implications associated with the model scheme in its entirety have been thought through or the scheme properly tested. There is a danger that citizens' expectations will be raised but the resources will not be there to deliver.

**Question 8:**

Do you think there is anything that should be added to the model scheme?

Given the responses to Question 6 and Question 7 above, the answer must be no.

**Question 9:**

Do you agree with the categories we have excluded in the order? If you do not agree with the categories please explain why you do not think they should be excluded.

If planning and licensing matters are excluded, then consideration should be given to excluding highway matters where statutory procedures are involved.

**Question 10:**

Do you think there should be additional categories excluded? If so, please state what they are and why you feel they should be excluded.

See Question 9 above.

**Question 11:**

Following on from this consultation, what do you consider the most appropriate timescale for bringing the petitions duty into force? Please explain your reasons.

Any scheme should be deferred until all the practical and resource implications have been thought through.

**Question 12:**

Initial discussions with both the local government and technology sector indicate that it would be wise to stagger the implementation of the e-petition element of the duty, bringing the e-petition requirements into force 12 months after the other elements of the duty are commenced. Do you agree? Please explain your reasons.

See response to Question 11 above.