

ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS

1.	Meeting:	Council
2.	Date:	21 st May 2010
3.	Title:	Local Government Reform – duty to respond to petitions: commencement and Council scheme
4.	Directorate:	Chief Executive's

5. Summary

Sections 10 to 22 of the Local Democracy, Economic Development and Construction Act 2009 (c. 20) provide a statutory duty for principal local authorities to handle and respond to petitions. This includes making provision for the submission of e-petitions and adopting a “scheme for handling petitions”. The Council is now required adopt a Petitions Scheme, taking account of provisions set out in an Order and statutory guidance. This report makes recommendations for the adoption of a Petitions Scheme and determination of associated issues.

6. Recommendations

That Council agrees:

- a) That the scheme attached as Appendix A be adopted as the Council's “Scheme for handling petitions”
- b) That the commencement dates for the provisions of the scheme be as follows:
 - (i) Paragraphs 1 to 3; 5 to 21; and 29 to 31 – 15th June 2010
 - (ii) Paragraphs 4 and 22 to 28 – 15th December 2010
- c) That the Council's constitution and standing orders be amended as follows:
 - (i) After section (1) of Article 6 of the constitution insert “(1A) Any citizen may organise, sign and present a petition to the Council in accordance with the Council's Scheme for handling petitions”
 - (ii) In Standing Order 4 insert “Presentation of petitions” and “Debate on petitions”
 - (iii) After Standing Order 8 insert “8A Presentation of petitions”
 - (iv) After Standing Order 8A insert “8B Debate on petitions”
 - (v) That the sub-paragraphs set out in Appendix B to this report apply to Standing Orders 8A and 8B
 - (vi) That amendments to Article 8 of the constitution and the Overview and Scrutiny Rules are included in a separate report to the Council.
- d) That the list of officers, by position, who may be called to give evidence as set out in Appendix C be approved.

7. Proposals and Details

Sections 10 to 22 of the Local Democracy, Economic Development and Construction Act 2009 (c. 20) (the Act) provide a statutory duty for principal local authorities to handle petitions made to the authority including the making of a scheme for the handling of petitions. The scheme will be required to set out how the Council handles petitions in accordance with the details of the duty. The scheme will require the approval of the full Council and to be published on the Council's web site.

The Local Democracy, Economic Development and Construction Act 2009 (Commencement No. 3) Order 2010 brings the new duty into force. It provides that the duty with the exception of e-petitions comes into effect on 15th June 2010; and for e-petitions 15th December 2010.

Section 19 of the Act provides that the Secretary of State may issue guidance and a model petition scheme. Statutory guidance has been published "Listening to communities: Statutory guidance on the duty to respond to petitions" which does include a model scheme.

The requirements of the duty set out that the Council will have flexibility to determine the details of the scheme subject to meeting the following minimum requirements:

- Anyone who lives, works or studies in Rotherham, including under 18's, can sign or organise a petition and trigger a response;
- A facility for making electronic petitions is provided by the Council;
- Petitions must be acknowledged within a time period specified by the Council;
- Among the many possible steps that the Council 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 Council;
 - Holding an inquiry;
 - Holding a public meeting;
 - Commissioning research;
 - A written response to the petition organiser setting out the Council's views on the request in the petition; and
 - Referring the petition to scrutiny.
- Petitions with a significant level of support trigger a debate of the full council. The Council will determine this threshold locally but it must be no higher than 5 per cent of the local population;
- Petitions with a requisite level of support, set by the Council, trigger a senior local government officer to give evidence at a meeting of the authority's overview and scrutiny committee. The committee may also require the relevant Cabinet Member, or other member as appropriate to attend; and
- Petition organisers can prompt a review of the Council's response if the response is felt to be inadequate.

The Council may also include other information in the scheme including how petitions will be handled which do not qualify for consideration under the scheme.

E-petitions

The Act requires the same requirements for electronic petitions as for paper petitions, except for the following:

- The Council will only be required to respond to e-petitions made through the Council's e-petition facility;
- The Council will need to decide, when a request to host an e-petition is received, whether the petition is appropriate for publishing on the web site;
- The Council will decide what equates to a signature on an e-petition; and
- The Council will be required to provide a facility for people to submit petitions to the authority electronically. In addition to this, the Council will be able to choose to respond to e-petitions submitted by other means and should indicate in the petition scheme how these types of petitions will be dealt with.

Should the Council decide not to host an e-petition, an explanation of the reasons will be required.

Responding to petitions

As a minimum, a 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;
- If made electronically, is made through the authority's e-petition facility;

The Council will be able to require information to verify signatures, but may also choose to take account of signatures that give no address or association with the area. To verify signatures of e-petitions, the provision of an e-mail address or post code may be required.

Extent and exclusions

Petitions will need to cover relevant matters, which are described as relating to the economic, social or environmental well-being of the area. These may cover the functions of partner authorities as well as those functions delivered directly by the Council. "Partner Authorities" are those bodies with a duty to co-operate under Chapter 1 of Part 5 of the Local Government and Public Involvement in Health Act 2007 (c. 28).

Should a petition call for an action that is contrary to Council policy, then it will be sufficient to refuse the request providing that an explanation is given.

Vexatious petitions may be refused under the scheme. It is recommended that the same criteria be used as that in guidance for dealing with freedom of information requests.

The consideration of petitions may also be refused if the issue is the subject of legal proceedings; relates to individual members of the community or are excluded matters. Excluded matters are set out in The Local Authorities (Petitions) (England) Order 2010 as:

- Any matter relating to a planning decision;
- Any matter relating to a licensing decision;
- Any other 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.

Petitions relating to systemic failure in planning and licensing matters would not be excluded.

However, the Council may continue to receive petitions in relation to planning and licensing and set out how these will be dealt with outside of the requirements of the new duty.

Petitions that are specifically covered in other legislation are also excluded from the duty and the Council's scheme. Such petitions will continue to be dealt with under the provisions of the appropriate legislation.

In responding to petitions, the Council will be required to be proportionate to the seriousness of the issue raised.

Petition debates

The Act requires that petitions which receive a significant level of support should be debated at a meeting of the full council. The Council is required to set out in the 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.

The scheme will need to provide for the petitioners to present their petition or ask a member to present it for them and could provide for members to ask questions of the petitioners as part of the debate. It is expected that such a debate would result in a decision of the full council or a recommendation to Cabinet, whichever is appropriate to the issue.

It will be for the Council to set the threshold of the number of signatures required to trigger a debate, but this must not be more than 5% of the local population. Petitions calling for a debate must fall within the provisions of the scheme, not including any excluded matter for debate, or call for any officer to give evidence.

Petitions calling officers to account

The Council's petition scheme must allow for petitions to trigger a senior member of council staff to attend a meeting of the Council's overview and scrutiny committee and answer questions about their work. The guidance to be followed in the questioning of officers is that already applied under the Local Government Act 2000 (c. 22). The Council will need to set a threshold for the minimum number of signatures required to trigger this action. The model scheme suggests a minimum of 750 signatures as a threshold.

The Council must determine which senior officers the provisions apply to. The head of paid service and the most senior officers responsible for the delivery of services are suggested. When asked to give evidence, this will be restricted to issues related to the job and no other matters personal detail. A proposed list of officers, by position, is attached at **Appendix C**.

The Council will be required to give notice to petitioners detailing when an officer is to give evidence at scrutiny. Petitioners should also be provided with a report of any findings and recommendations made by scrutiny.

Petition reviews

Section 17 of the Act provides for appeal. If a petition organiser is not satisfied with the way the Council has dealt with a petition, this section gives the organiser the power to ask the overview and scrutiny committee to review the Council'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.

The overview and scrutiny committee will be required to bear in mind the list of potential steps which could be used to respond to the petition set out in the 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.

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. If the committee thinks that the authority is seriously neglecting its responsibility to listen to local people, the committee can arrange for the full council to carry out the review function.

The Council will be required to inform the petitioners of the outcome of a review and post the results on the Council's web site.

Standing Orders and Rules

Procedurally, the Council will need to make a number of changes to the Constitution and Standing Orders to comply with the duty. **Appendix B** to the report sets out changes in relation to presentation of and debate on petitions. Amendments will also be required to Article 8 of the constitution and the Overview and Scrutiny Rules in relation to officers called to give evidence and appeals. It is proposed that these will be presented to the annual meeting of the Council alongside other amendments.

8. Finance

There are no direct financial implications identified at this stage. It is unlikely that there will be significant costs associated with the introduction of e-petitioning as the current Council web-site is capable of hosting this facility. Costs may arise from administration of the scheme, but this will be dependant on the volume of new administration generated by the duty and scheme.

9. Risks and Uncertainties

The key risk is the unknown additional demand that may be brought about by the duty. Additionally, to ensure compliance with the duty, it will be necessary to not only record the receipt of petitions, but also to create an audit trail for the dealing with petitions once received.

Traditionally, petitions have been presented to the Council through various means, not just formally at meetings. If, as expected, this were to continue, the Council will need to ensure that the receipt of such petitions is recorded and reported for due consideration in accordance with the provisions of the duty.

10. Policy and Performance Agenda Implications

The Council has a long history of handling and responding to petitions. The new duty builds on the Council's approach, with the "scheme" providing greater clarity to the community.

Whilst the duty and scheme are statutory requirements, locally they need to be seen in the context of the broader policy agenda around community engagement, "calls for action" and partnership working. This would result in further reports covering communicating the provisions of the new duty as part of the "Community Engagement Framework", and practical steps for engaging partner authorities. Cabinet has previously agreed this course of action.

The outcomes arising from the new duty are likely to impact on performance against National Indicator No. 4 (% of people who feel they can influence decisions in their locality).

11. Background Papers and Consultation

Ahead of commencement of the new duty, the Government consulted on draft guidance, Order and model scheme. The Council responded to this consultation following a report to Cabinet on 24th February 2010.

Background papers

Local Democracy, Economic Development & Construction Act 2009 (c. 20)
The Local Democracy, Economic Development and Construction Act 2009 (Commencement No. 3) Order 2010
The Local Authorities (Petitions) (England) Order 2010
Local Government and Public Involvement in Health Act 2007 (c. 28)
Listening to communities: Statutory guidance on the duty to respond to petitions
Minute C193, Cabinet, 24th February 2010

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