

**REPORT OF: DIRECTOR OF LEGAL SERVICES****TO: ANNUAL COUNCIL MEETING****ON: 20TH MAY 2010**

SUBJECT: NEW PETITIONS DUTY

1. PURPOSE OF THE REPORT

To advise Council of the requirements under the Local Democracy, Economic Development and Construction Act 2009 relating to the receiving of petitions and to approve the introduction of a new petition scheme.

2. RECOMMENDATIONS

1. That Council note the report;
2. That the Chief Executive and Director of Legal Services, following consultation with Group Leaders, be granted delegated authority to make the necessary amendments to the draft model petitions scheme (attached at Appendix 1) for introduction on 15th June 2010, with the e-petitions element to be introduced no later than 15th December 2010; and
3. That the necessary changes be made to the Council's Constitution.

3. BACKGROUND

The Local Democracy, Economic Development and Construction Act 2009 ("the 2009 Act") imposes a new statutory duty on local authorities to have a scheme for handling petitions which must be approved by full Council and published on the Council website. Local authorities must adopt a petition scheme by 15th June 2010. Under the 2009 Act the local authorities also has a duty to make a facility available for electronic petitions and for people to be able to sign these e-petitions electronically. The e-petitions facility must be adopted by 15th December 2010.

The 2009 Act will require local authorities to respond to petitions publicly which meet certain criteria and inform local people what action is being taken to address their concerns. Whilst the 2009 Act also requires petition schemes to meet some minimum standards, local authorities have a high level of flexibility about how they approach the duty and thus provide scope for local determination.

Any existing arrangements relating to petitions will need to be reviewed to ensure compliance with the new statutory duty under 2009 Act.

Once the petition scheme is agreed and published the Council must comply with the scheme but can revise it at any time in accordance with the 2009 Act

4. RATIONALE

The key requirements of the Council in relation to the petition scheme under the 2009 Act are as follows:

- 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 local authority may choose to take in response to the petition, a number of steps must be included amongst the options listed in the scheme (such as taking the action requested in the petition, holding an inquiry and referring the petition to an overview and scrutiny committee)
- Petitions with a significant level of support trigger a debate of the full council
- Petitions with a requisite level of support, set by the local authority, trigger a senior local government officer to give evidence at an overview and scrutiny meeting
- Petition organisers can prompt a review of the local authority's response if the response is felt to be inadequate.

The statutory guidance, states that petitions which are vexatious, abusive or inappropriate do not qualify under the Section 14 requirement to take steps in response to the petition.

In order not to duplicate procedures where established processes exist for communities to have their say, the Local Authorities (Petitions) (England) Order 2010 ("the Order") excludes the following matters from the scope of the statutory duty under section 14 of the 2009 Act:

- Any matter relating to a planning decision under relevant planning acts, including about a development plan document or the community infrastructure levy
- Any matter relating to a licensing decision, including licensing applications under the Licensing Act 2003 and the Gambling Act 2005
- 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.

However, any petition about the failure to deliver services in these areas would remain within the scope of the statutory duty under the 2009 Act.

The Council is required to set a threshold to trigger the various types of petitions. Under the Local Authorities (Petitions) (England) Order 2010 stipulates that the maximum

threshold that can be set is 5% of the “total local authority population”. Based on a trigger of say 3% for Blackburn with Darwen, which has a population of 139,400 (in the 2008 revised mid year population estimates from the Office of National Statistics), petitions which contain approximately 4200 signatures would be debated by the full council. A trigger also needs to be set for ‘ordinary’ petitions (under the current petitions scheme a petition must be signed by at least six people), and attendance of senior officers at scrutiny meetings.

As referred to above, local authorities are also required under the 2009 Act to provide in their petition scheme allowing petitions with a requisite level of support (set by the local authority) to trigger attendance of a senior member of Council staff to give evidence at a meeting of overview and scrutiny committee. This builds on existing powers of overview and scrutiny committees who can currently require Members and officers to attend a scrutiny meeting and give evidence. The statutory guidance states that this trigger is based on the principle that local government should be transparent as possible and that officers are accountable to elected Members and will allow members of the local community to make use of petitions to influence the way this scrutiny takes place.

Further guidance will be issued on the Model Scheme following discussions with Group Leaders, and drop-in sessions will be held for Members and relevant Officers to ensure all are aware of the new scheme and can assist members of the local community with any queries.

5. POLICY IMPLICATIONS

The new statutory duty will formalise a Petition Scheme for the Authority.

6. FINANCIAL IMPLICATIONS

Central Government have indicated they will meet the costs of the new burdens associated with the petitions duty. Local authorities will receive a grant for 2010/11. It is expected that funding for future years will be incorporated into the revenue support grant.

7. LEGAL IMPLICATIONS

The Council is required to adopt a petition scheme under the 2009 Act and the Order by 15 June 2010 and have the e-petition facility available by 15 December 2010 (The Local Democracy, Economic Development and Construction Act 2009 (Commencement No.3) Order 2010). In finalising the petition scheme the Council will be under a duty to have regard to the statutory guidance issued

8. RESOURCE IMPLICATIONS

As outlined at 6, costs will be met by the Government. As the authority already has a petitions scheme, the introduction of the new duty will not be as resource intensive as setting one up from scratch, however it would appear that the various stages involved in the scheme will have resource implications, in particular, setting up and administering the e-petitions duty.

9. CONSULTATIONS

The Government consulted nationally on the draft statutory guidance and secondary legislation to support the petitions duty.

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Date: 12th May 2010
Background Papers: Listening to communities: Statutory guidance on the duty to respond to petitions, March 2010 (www.communities.gov.uk)