

Central
Bedfordshire
Council
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CONSTITUTION ADVISORY GROUP
DATE: 25 January 2010

TITLE	THE DUTY TO RESPOND TO PETITIONS - CONSULTATION ON DRAFT STATUTORY GUIDANCE	ITEM NO.
REPORT OF	Head of Democratic Services	8

PURPOSE	To decide whether to respond to draft statutory guidance on the duty to respond to petitions contained in the Local Democracy, Economic Development and Construction Act 2009 and to note that changes are likely to be required to the Council's Petitions Procedure when the final guidance is published.
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ORIGIN OF PROPOSAL	Draft statutory guidance issued by Communities and Local Government
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RECOMMENDATION:	<ol style="list-style-type: none"> 1. That the Constitution Advisory Group considers whether it wishes to respond to the draft statutory guidance. 2. That the Council be recommended to authorise the Monitoring Officer, after consultation with this Group, to vary the Petitions Procedure in Part A4 of the Constitution and any associated provisions within the Constitution, to comply with the statutory guidance, when published.
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SUPPORTING INFORMATION

1. The Local Democracy, Economic Development and Construction Act 2009, which received Royal Assent on 12 November 2009, is in 9 Parts. Part 1 (Democracy and Involvement) contains 6 Chapters and aims to reinvigorate local democracy by placing local authorities on the front line of ensuring local citizens connect with local decision makers.
2. Chapter 2 of Part 1 contains provisions for handling petitions and draft statutory guidance has been issued. The guidance sets out the key principles and requirements of the petitions duty, which requires local authorities to create a scheme for responding to the petitions they receive, and to comply with that scheme.
3. Chapter 2 requires all principal councils to make, publicise and comply with a scheme for handling petitions (including electronically through their websites). Schemes will set out the requirements for petitions in order for them to be dealt with, including the number of signatures required which must be no more than 5% of the total local authority population. Signatures must be from people who live, work or study in the authority's area. Schemes will also need to set out how the authority will acknowledge the petition and in what time scale. The acknowledgement must give information about what the authority has done or proposes to do in response to the petition.
4. Authorities are required to take steps in response to the petition and to inform the petition organiser and the public about what steps will be taken. The Act indicates a number of steps that councils may consider taking as a result of a petition. Planning and licensing decisions are excluded from this duty, as are other matters relating to an individual or entity in respect of which there is already a separate right of appeal, and petitions which are in the authority's opinion vexatious, abusive or otherwise inappropriate.
5. Petitions above a certain size must be debated by the full council. A petition organiser is able to refer a petition to the Council's Overview and Scrutiny Committee if dissatisfied with the process adopted. It will also be possible for a petition to require an officer to be 'called to account' at a council meeting.
6. Whilst the Council has a Petitions Procedure in place at Part A4, Annex 2 of the constitution ([Appendix A](#)), this does not exactly follow the proposed model within the Act and the draft statutory guidance, nor does the Council at this time have an e-petitions facility within its website. Beyond the finer points of detail and wording, the main differences are:

CBC Constitution (paragraph numbers in brackets)

Petitions require at least 7 clear working days' notice to the Monitoring Officer (1.1).

New Model Petitions Scheme

Petitioners are advised to contact Council for assistance at least 5 working days before the meeting.

Written acknowledgement within 3 clear working days of receipt, saying what the Council proposes to do in response to the petition, including date and time of meeting and advising rights to speak (3.1).

Required to publish responses to petitions on the website, but not at the point of receiving the petition (4.5.2).

Council to follow one of a list of options following consideration of the petition (5.1).

(No similar provision)

(No similar provision)

Petitions to be validly signed by at least 10 people who live, work or study in the authority's area (1.2.3).

Petitions to be relevant to the Forum to which they are addressed, i.e. Council, Executive or a committee (1.3).

Petitions presented at full Council to be discussed for up to 10 minutes (4.3).

Acknowledgement within 14 days, saying what the Council plans to do with the petition and when the petitioner can expect to hear again.

Details of all petitions received and related correspondence (except personal details) to be published on the website. Signatories to an e-petition can ask for information by e-mail.

Includes all those listed, plus the options of holding a public meeting, consultation or meeting with petitioners or calling a referendum.

If the petition is about something over which the Council has no direct control, it should consider making representations on behalf of the community to the relevant partner organisation.

If the petition is about something for which a different council is responsible, Council to consider the best way of responding.

No stipulation – valid number of signatures to be specified in each local authority's petition scheme, (but must not exceed 5% of the total local authority population).

Petitions with more than 1,500 signatures to be debated by full Council (or at a public meeting which all councillors can attend).

Petitions presented at full Council to be discussed for 15 minutes max.

(No similar provision)

Petition may ask for senior council officer to give evidence at a public meeting – at overview and scrutiny committee meeting where it contains at least 750 signatures.

(No similar provision)

Council must provide for e-petitions – see new provisions in the draft model scheme.

Petitioner may request overview and scrutiny committee to review the adequacy of the Council's response at its next scheduled meeting (7.1 & 7.2).

Same but committee to consider request within 30 days of receipt.

Outcome of overview and scrutiny review to be notified within 5 clear working days (7.4).

Same but within 7 days.

7. The current Petitions Procedure will ultimately need to be revisited to take account of the provisions of the new Act. This needs to await final statutory guidance.
8. With regard to the requirement for e-petitions, Members are advised that the Council's current committee management system (Modern.Gov.) does have provision to enable the submission of e-petitions, subject to an upgrade of the software (at no cost).
9. The Department for Communities and Local Government (DCLG) is consulting on draft statutory guidance on the duty to respond to petitions to which local authorities will be required to pay regard. The consultation asks whether the guidance adequately explains the key principles and requirements of the duty, whether it is clear and easily understood with an appropriate level of detail. It also asks views on the matters to be excluded from the duty through the draft order and on suitable timescales for implementation. A copy of the draft statutory guidance issued by Communities and Local Government is set out in [Appendix B](#) and a summary of the questions in the consultation document is set out in [Appendix C](#).
10. The closing date for responses to the consultation is 24 February 2010. Following consultation DCLG will analyse responses and they will be used to inform the final version of the statutory guidance and the model scheme which will underpin the petitions duty when it comes into effect. The Minister of State has confirmed that a decision on the commencement date will be made after the consultation concludes. The Minister simultaneously announced that, given the current economic situation, implementation of the wider Duty to Promote Democracy contained in the Act is being deferred until after the next government spending review.

11. Under Part H3, paragraphs 3.1.8 and 3.1.9 of the constitution, directors may prepare draft responses to external consultation papers of this nature (i.e. not purely operational) subject to their publication on the Intranet for Member comment for seven working days, and all Members being notified by e-mail. The director, in consultation with the relevant Portfolio Holder, may then finalise the response in the light of any comments received, subject to any consultations of major significance being referred to the Executive. In this instance it is suggested that, if the Advisory Group wishes to make a response, publication on the Intranet and e-mail notice prior to a final response in consultation with the Portfolio Holder for Corporate Resources will suffice.

12. The draft petitions order specifies that the petitions duty will come into force on 1 April 2010. It is therefore suggested that the Council be asked to delegate authority to the Monitoring Officer, after consultation with this Group, to vary the Petitions Procedure to comply with the statutory guidance, when issued.

Appendices –

Appendix A – Copy of Council’s current Petitions Procedure

Appendix B - Copy of draft statutory guidance (including a draft model scheme)
issued by Communities and Local Government

Appendix C – Summary of Consultation questions

Contact Officer Details:
Kathrin John

Key Background Papers:
Chapter 2 Local Democracy, Economic Development and Construction Act 2009
Draft statutory guidance on the duty to respond to petitions