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Council  
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Shefford SG17 5TQ



<b>CONSTITUTION ADVISORY GROUP</b>
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<b>DATE: 1 June 2010</b>
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<b>TITLE</b>	<b>Petitions Scheme</b>
<b>REPORT OF</b>	<b>Head of Democratic Services</b>

<b>PURPOSE</b>	To recommend to Council the approval of a Petitions Scheme and amendment of the Constitution in order to comply with the Local Democracy, Economic Development and Construction Act 2009
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<b>ORIGIN OF PROPOSAL</b>	To meet the legislative requirements under the Local Democracy, Economic Development and Construction Act 2009, The Local Authorities (Petitions) (England) Order 2010 and Statutory Guidance on the Duty to Respond to Petitions.
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<b>RECOMMENDATION:</b>
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| <ol style="list-style-type: none"><li>1. That the Group review the threshold for:-<ol style="list-style-type: none"><li>(i) General petitions received under the scheme;</li><li>(ii) Petitions which must be debated at a full Council meeting; and</li><li>(iii) E-petitions.</li></ol></li><li>2. That the Group:-</li></ol> |
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- (i) note the provision for petitions to trigger a requirement for a senior member of Council staff to attend a meeting of the Council's Overview and Scrutiny Committee;
  - (ii) consider whether the threshold to trigger such a requirement in the draft scheme at Appendix B (1200) is appropriate; and
  - (iii) recommend the Council that the Chief Executive and Directors, should be specified as the Senior Officers who shall be subject to the requirement to give evidence at a meeting of the relevant overview and scrutiny committee in response to a petition.
3. That the Group note the proposals relating to e-petitions as set out in paragraphs 3.13 – 3.14 and recommend the Council to introduce the e-petitions facility, subject to satisfactory testing, with effect from 1 October 2010.
4. That the Group considers the issues identified during operation of the current petitions scheme and specifically:-
  - (i) considers whether to specify a consistent period during which the public may speak either under the public participation scheme or the petitions scheme (paragraph 4.1 (i) of this report refers);
  - (ii) approves the clarification of the wording of paragraph 9.1 of Annex 2 (Part A.4) (Appendix C to this report) on what is meant by reviewing "the adequacy of the response to the petition" (paragraph 4.1 (ii) of this report refers); and
  - (iii) Determines the timescale within which the lead petitioner must submit a request for a review by overview and scrutiny (paragraph 4.1 (iii) refers).
5. Subject to 1 - 4 above and to any further comments from the Advisory Group, to recommend to Council on 24 June 2010 to approve:
  - (i) The Public Petitions Scheme as set out at Appendix C; and
  - (ii) The consequential amendments to Part A4 and D2 of the Constitution as set out in Appendices D and E

## **SUPPORTING INFORMATION**

### **1. Introduction**

- 1.1 The Local Democracy, Economic Development and Construction Act 2009 contains a duty on local authorities to respond to petitions.

1.2 Statutory guidance (a copy of which is attached at Appendix A) has now been published and local authorities must have regard to this guidance in developing their petition schemes. All authorities must have a petitions scheme in place by 15 June 2010 and the e-petitions duty comes into force on 15 December 2010.

## 2. **Current Arrangements for Petitions provided through the Constitution**

2.1 Provision for the submission of petitions by members of the public is currently set out at Part A4 section 4 paragraph 4.1 and also in detail at Part A4 Annex 2 Petitions Procedure.

2.2 Members will recall that when the new Constitution was drafted, the section relating to petitions was prepared having regard to the provisions of the Local Democracy, Economic Development and Construction *Bill*, in order that, as far as possible, the Council already had in place a compliant scheme. A report was submitted to the meeting of the Group on 25 January 2010 which referred to the provisions of the *Act* finally passed, together with draft Statutory guidance issued for consultation. The report set out the main discrepancies between the Council's current petitions procedure and the requirements of the *Act* and guidance.

2.3 In addition to a number of minor textual amendments required to ensure compliance (such as clarification of exclusions from petitions schemes (eg: licensing and planning decisions), the main discrepancies are:-

(a) A requirement to debate petitions containing signatures above a given threshold at a meeting of full Council (Chapter 2 of guidance);

(b) A requirement to include provision for petitions to trigger attendance of Senior Officers to attend a meeting of an overview and scrutiny committee, to answer questions about their work and how they are delivering public services (Chapter 3 of guidance); and

(c) A requirement to provide an e-petitions facility (Chapter 1 – paragraphs 41 – 46 of the guidance).

2.4 A draft Public Petitions Scheme is set out at Appendix C, whilst an amended Part A4 to the Constitution is set out at Appendix D.

## 3. **Matters for Consideration**

(i) *Thresholds*

3.1 The Government recommends that local authorities set low thresholds such as those used in the model scheme in the statutory guidance (1% of population for petitions requiring debate by full Council and 0.5% for petitions requiring senior officers to give evidence.)

- 3.2 The Council has already set a very low level for general petitions (10 signatures) **but may wish to take the opportunity to review that threshold.**
- 3.2 Using the threshold levels recommended in the guidance would produce a figure of 2,500 (rounded down) for a petition requiring a debate in Council and 1200 (rounded down) for a petition requiring a senior officer to give evidence.
- 3.3 **The Group may also wish to consider the threshold level for e-petitions and this is dealt with under the section relating to e-petitions. (Paragraphs 3.13 to 3.15 refer)**
- 3.4 Attached at Appendix B is a table showing the number of petitions received by Central Bedfordshire Council to date, the subject matter of the petition and the number of signatories.

(ii) *Debates at Full Council*

- 3.5 The statutory guidance requires that petitions containing signatures above a specified threshold shall trigger a debate in full Council. The Council's existing scheme allows any petitioner to submit their petition to Council and that petitions shall normally be debated for up to 10 minutes.

In practice, only three petitions have been received at full Council to date (one on leisure facilities in Sandy, one on a planning matter and one on a traffic management matter), none was debated and the petitions were referred to the Executive, Development Management Committee and the Safer and Stronger Communities Portfolio holder's Traffic Management meeting respectively.

- 3.6 Part A4 of the Constitution retains the provision to allow *any* petition to be submitted to Council and still retains the statement that "petitions shall normally be discussed by the Council for up to 10 minutes." However the Scheme provides that petitions with over 2,500 signatures **must** be debated by Council. **Given that invariably smaller petitions are referred to the relevant committee for consideration, the Group is invited to consider whether it wishes to retain the provision relating to discussion of general petitions or wishes only to debate petitions above the larger threshold.**

(iii) *Senior Officers Giving Evidence*

- 3.7 Local people now have the right to petition for a senior officer to attend a public meeting of an overview and scrutiny committee. If the signatures exceed a specified threshold, a senior officer will have to attend the meeting and answer questions about their work.

- 3.8 This provision extends the existing powers of overview and scrutiny committees to require members and officers to attend their meetings and give evidence.
- 3.9 The statutory guidance indicates setting the threshold at around 0.5% of the total population, a figure of 1200 for Central Bedfordshire.
- 3.10 The Act provides that as a minimum the scheme should provide that the Head of Paid Service and Chief Officers should be required to provide information on their activities at overview and scrutiny meetings.
- 3.11 In Central Bedfordshire therefore the Chief Executive, Deputy Chief Executive/Director of Children's Services, Director of Social Care, Health and Housing, Director of Sustainable Communities and Director of Customer and Shared Services would be required to give evidence.

A minor amendment is suggested to the Overview and Scrutiny Procedure Rules as set out in Appendix E.

- 3.12 The guidance makes it clear that the final decisions on which officer should attend and the questions to be asked, rest with the overview and scrutiny committee. The committee 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 and may also wish to invite the elected Member with the responsibility for the service area concerned.

(iv) *E-petitions*

- 3.13 The 2009 Act requires that local authorities provide a facility for people to submit petitions to the authority electronically.
- 3.14 The Council's Committee Management System, Modern.Gov, has an e-petitions facility which is easy to use by members of the public. It is already in use by councils such as Lambeth, Brighton and Hove and Staffordshire County. Members may wish to look at the facility on the Lambeth Council website though the attached link:-

<http://www.lambeth.gov.uk/moderngov/mgePetitionListDisplay.aspx>

The same system will be used by Central Bedfordshire Council and arrangements are in hand to test this site with a view, **subject to the Group's endorsement**, to introducing the e-petitions scheme on 1 October 2010, ahead of the deadline of 15 December 2010.

3.15 As indicated above, the current constitutional requirement is for a minimum of 10 signatures for a petition to be valid. E-petitions require a different e-mail address for each name. It would be easy for one individual to create, at no cost, several e-mail addresses from which to enter a “signature” on the e-petition. **Members may therefore wish to reflect upon an appropriate threshold for e-petitions.**

#### **4. Practical Issues during Operation of the Current Scheme**

4.1 Operation of the current scheme has identified a number of issues which should be drawn to the attention of the Group:-

- (i) The Council’s current public participation scheme allows speakers 3 minutes in which to address a committee. Speakers on a petition at Council are permitted to speak for 5 minutes. The current petitions procedure is silent as to how long the lead petitioner may speak for at Executive or any meetings other than Council. **The Group are therefore asked to reflect on this anomaly and determine whether consistency should be adopted in relation to length of speaking permitted under either the public participation or petitions schemes** (ie: should speakers be allowed 3 minutes or 5 minutes?)
- (ii) If a petitioner is not satisfied with the Council’s response to their petition they are able to request a review by an overview and scrutiny committee who will then “review the adequacy of the response”. There is a need to provide clarity as to what is meant by “the adequacy of the response” – is this the written response or actions undertaken by the Council to deal with the petition? In reality, what is meant is that the overview and scrutiny committee will review the steps taken in response to the petition (bearing in mind the list of potential steps available under Section 14 (6) of the 2009 Act) and determine if it has dealt with the petition properly. The revised scheme at Appendix C therefore contains some additional wording to clarify **and Members’ endorsement is sought to this change.**

- (iii) There is a lack of clarity around whether the right for a lead petitioner to seek a review by overview and scrutiny impacts upon the ability to implement a decision. At present Executive decisions cannot be implemented until the expiry of the call-in period. The emerging view is that the review by Overview and Scrutiny should be of the steps taken by the decision maker rather than a review of the decision itself. Nonetheless it might be advisable to impose a deadline for submission of a request for a review. The Monitoring Officer is currently required to respond to the petitioner on the outcome of the petition within 5 clear working days of the decision. The draft scheme at Appendix C provides for the review to be made within 10 working days of being informed of the outcome of the petition **but the Group's views are now sought on the appropriate timescale for submission of a request for review.**

**Appendices:**

- A "Listening to Communities" – Statutory Guidance on the Duty to Respond to Petitions
- B Table showing Petitions received by Central Bedfordshire Council to date.
- C Draft Public Petitions Scheme.
- D Part A4 of the Constitution – Revised
- E Extract from Part D2 of the Constitution – Revised

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<b>Contact Officer Details:</b>	<b>Key Background Papers:</b>
Mel Peaston 0300 300 72050	Local Democracy, Economic Development and Construction Act 2009; CBC's Constitution; websites for Lambeth Council, Brighton and Hove Council, and Staffordshire County Council.