

Update on the Petitions Scheme

RECOMMENDATION

1. To note the report.

SUPPORTING INFORMATION

- 2.1 This report provides an update on the Council's Petition Scheme. The Council's Petition Scheme established in accordance with the Chapter 2 of Part 1 of the Local Democracy, Economic Development and Construction Act 2009 (petitions to local authorities) and subsequent statutory guidance. The scheme was adopted by the Council at its May 2010 Annual Council meeting.
- 2.2 The Government has withdrawn the Statutory Guidance and is seeking to repeal provisions about petitions to local authorities through the Localism Bill currently going through parliament. If this goes through in its current form it is expected to come into force in May 2012. It will then be up to the Council to determine whether it retains the scheme or make changes and adopt a new process to determine local petitions.
- 2.3 There two types of petitions scheme operated by the Council - paper petition and an E-Petition. Paper petitions require signatures on a piece of paper whilst E –petitions collects signatures by a host site.
- 2.4 Paper petitions are received by the Chief Executive's Office. They may be posted to the address below or delivered by hand to reception at Saxon House, , Petitions can also be handed to the Mayor by appointment

Petitions
Chief Executive's Office
4th Floor
Saxon House
Friary Street.

- 2.5 **E-petitions** - There are a wide variety of e-petition websites available and we are happy to deal with the site that people feel most comfortable using. Details of the current petitions scheme can be found on CMIS
<http://cmis.derby.gov.uk/cm5/Petitions.aspx>

This report has been approved by the following officers:

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| Legal officer | |
| Financial officer | |
| Human Resources officer | |
| Service Director(s) | |
| Other(s) | |

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| For more information contact: | Mahroof Hussain 01332 643647 e-mail mahroof.hussain@derby.gov.uk |
| Background papers: | Appendix 1 – Implications |
| List of appendices: | Appendix 2 –Petitions Scheme |
| | Appendix 3 – |

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| IMPLICATIONS |
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Financial and Value for Money

- 1.1 None arising directly from this report.

Legal

- 2.1 The Petitions Scheme was established in accordance with Chapter 2 of Part 1 of the Local Democracy, Economic Development and Construction Act 2009 (petitions to local authorities)

Personnel

- 3.1 None arising directly from this report.

Equalities Impact

- 4.1 Petitions enable local residents to exercise their democratic right.

Health and Safety

- 5.1 None arising directly from this report

Environmental Sustainability

- 6.1 None arising directly from this report

Asset Management

- 7.1 None arising directly from this report

Risk Management

- 8.1 None arising directly from this report

Corporate objectives and priorities for change

- 9.1 This report has the potential to link with all the Council's Priorities for 2011-12...

Duty To Respond To Petitions – Approval of Scheme

RECOMMENDATIONS

- 1.1 To agree that the threshold for a petition triggering a full Council debate shall be 8,500 signatures
- 1.2 To agree that the threshold for a petition triggering a requirement for a senior officer to give evidence to an overview and scrutiny commission shall be 8,500 signatures
- 1.3 To approve and adopt the Petitions Scheme.

SUPPORTING INFORMATION

- 2.1 To promote citizen engagement with the democratic process, the Council has operated a well understood process for receiving and responding to citizens' petitions. The Local Democracy, Economic Development and Construction Act 2009, 'the 2009 Act' now puts the duty to respond on a statutory footing.
- 2.2 A scheme must be in place on 15 June 2010. Although the Council's arrangements already deliver much of the good practice envisaged by the 2009 Act, the legislation is prescriptive about processes. Therefore significant revision is needed to ensure compliance with the Act.
- 2.3 This report sets out a Petition Scheme to operate from 15 June. Further provisions also require an electronic petitions facility to be available by 15 December 2010 and a subsequent report will address those aspects. The 2009 Act requires that a scheme is approved by full Council, which must also approve any future amendments.
- 2.4 Some of the key changes are:
 - Petitions can be signed by any one who lives, works or studies in the local authority area
 - The existing arrangement of categorising petitions as 'local' (considered by Neighbourhood Forums) or 'city-wide' (considered through the Scrutiny Management Commission) does not accord with

- the new requirements
- There is a statutory minimum list of 7 response 'steps', although unranked the first listed is 'giving effect to the petition'
- The Council can add more 'steps' to the statutory list, but must respond to the petition organiser by taking one or more 'steps'.

Other new requirements include that a petition can:

- require a debate by full Council or
- require an officer to give account of their self at an overview and scrutiny commission

Having received the response of the Council, there will be a right for the petition organiser to require a review of the steps taken, which will trigger an overview and scrutiny commission review of the adequacy of those steps.

- 2.5 In effect there will be four different types of petition (this does not include licensing and planning) which require differences in processing.
- 2.6 The Department for Communities and Local Government has produced a Model Scheme. The approach taken has been to adapt the Model Scheme for Derby's circumstances. This has the advantage of achieving brevity and clarity for potential petitioners. This will be underpinned by a detailed checklist process to ensure prompt, appropriate responses within time limits and tailored to the four different types of petition.
- 2.7 Regarding petitions requiring a relevant officer to give account of his or her self at an overview and scrutiny commission, it is proposed to define relevant officers as Head of Service and above. This is consistent with the long standing threshold for attendance by officers at scrutiny commissions. The Act and Guidance sets the trigger number of signatories for an officer to give account, or for a full Council debate, to be set at a maximum of 5% of the population. For Derby this would be 11,500. The recommendation within the Guidance is that the figure should be lower and it is proposed that this be set at 8,500. This can be seen to be equivalent to 500 per ward and is well below the legal maximum threshold.
- 2.8 At its meeting on 2 February 2010, the Scrutiny Management Commission considered a report on the new statutory provisions and a DLGG Consultation Paper on Draft Statutory Guidance. The Commission authorised the sending of a response to the Consultation Paper, and approved expenditure of up to £8,000 on an upgrade to the Council Meeting Information System (CMIS) to provide an e-petition facility.
- 2.9 A subsequent report will deal with the requirement to have an 'e-petitions' scheme in place by 15 December 2010. A report to Council in November 2010 will provide an opportunity to review this scheme in the light of experience and in particular to consider whether 8,500 is an appropriate threshold.

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| For more information contact: | Rob Davison 01332 255596 e-mail rob.davison@derby.gov.uk |
| Background papers: | Appendix 1 – Implications |
| List of appendices: | Appendix 2 – Petitions Scheme |

Appendix 1

IMPLICATIONS

Financial

1. The Scrutiny Management Commission has approved a one-off sum of up to £8,000 payment to upgrade computer systems to manage e-petitions. Government accept that there is a small, new financial burden which will be recognised through grant formula.

Legal

2. Chapter 2 of the Local Democracy, Economic Development and Construction Act 2009 places duties on principal local authorities to make, publicise and comply with a scheme for handling paper and electronic petitions. The Local Authorities (Petitions) (England) Order 2010 SI 2010/898 deals with exclusions from the scheme and also petition thresholds.

Personnel

3. The main issue will be the impact on staff time, validating and responding to petitions.

Equalities impact

4. The current arrangements of the Council seek to be inclusive. For example the current minimum number of signatories for a valid petition is five names from different addresses, which should enable residents with mobility or caring responsibilities to trigger a petition. That threshold is maintained in the proposed scheme. The statutory scheme extends stakeholders to any one who lives, works or studies in Derby.

Petitions Scheme

1. Petitions

- 1.1 The Council recognises that petitions are a useful 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 10 working days of receipt. This acknowledgement will set out what we plan to do with the petition. We will treat something as a petition if it is identified as being a petition containing the signatures of five local people, or if it seems to us that it is intended to be a petition.
- 1.2 Petitions need to be received by the Office of the Chief Executive. This can be done directly by posting to:

**Petitions
Chief Executive's Office
PO Box 6292
The Council House
Corporation Street
Derby
DE1 2XL**

or by delivering the petition to the reception desk at the Council House.

Petitions may also be handed to the Mayor by appointment. Please telephone 255482 to arrange a mutually convenient date and time. Ward councillors will be made aware of these petition handovers.

2. What are the guidelines for submitting a petition?

- 2.1 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 - this statement must be repeated at the top of each page of the petition
 - the name and address and signature of any person supporting the petition.
- 2.2 The minimum number of signatures are five from local people at different addresses. Local includes anyone who lives, works or studies in Derby. 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. If the petition does not identify a petition organiser, we will contact the first signatory, and if necessary, subsequent 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 [see note 1]. In the period immediately before an election or referendum we may need to deal with your petition differently – if this is the case we will explain the reasons and discuss the revised timescale which will apply. 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. We will also advise if it is possible for the petition to be re-submitted by making minor amendments to it.

3. What will the Council do when it receives my petition?

- 3.1 An acknowledgement will be sent to the petition organiser within 10 working days of registering the petition. It will be from a Council officer acting on behalf of the Chief Executive. It will let the petition organiser 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.
- 3.2 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. In such cases the petition organiser will be directed to the appropriate Council department.
- 3.3 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. [see note 1]
- 3.4 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).

4. How will the Council respond to petitions?

4.1 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 one of the Council's overview and scrutiny commissions [see note 2]
- considering the petition at a meeting of the Council Cabinet [see note 3]
- writing to the petition organiser setting out our views about the request in the petition

4.2 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 boxes below give some examples.

Examples of appropriate steps to respond to a petition

| Alcohol related crime and disorder |
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| 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, for example, establishing a Designated Public Place Order or, as a last resort, imposing an Alcohol Disorder Zone (ADZ). When an ADZ is established, the licensed premises in that specific area are required to contribute to the costs of extra policing to control the alcohol related disorder. The Council's response to your petition will set out the steps we intend to take and the reasons for taking this approach. |

Anti-social behaviour (ASB)

As the elected representatives of your local area, as social landlord and licensing authority, the Council plays a significant role in tackling anti-social behaviour. The Council, in conjunction with our partners in the Derby Community Safety Partnership have set out minimum service standards for responding to issues of anti-social behaviour.

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 Community Safety Partnership and our crime and disorder overview and scrutiny committee to the issues highlighted in the petition.

Under-performing schools

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 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. 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

other measures available to us 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.

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 Derby 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 is independently supported). The Adult Services and Health Commission 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.

- 4.3 If your petition is about something over which the Council has no direct control (for example the local railway or hospital) we will consider making representations on behalf of the community to the relevant body. The Council works with a large number of local partners and where possible will work with them 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 on the website www.derby.gov.uk
- 4.4 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. This 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

5. Full Council debates

- 5.1 If a petition contains more than 8500 signatures it will be considered 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 Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting.
- 5.2 A Council officer will contact the petition organiser to confirm their attendance, liaise with them about any access/communication needs, the likely number of supporters who will be present and how it can also be watched on the live web cast.
- 5.3 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 or endorse 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 scrutiny commission. Where the issue is one on which the Council Cabinet is required to make the final decision, the Council will decide whether to make recommendations to inform that decision. The Council Cabinet may itself propose a response to the full Council when the petition is considered. The petition organiser will receive written confirmation of the outcome of the Council meeting. This confirmation will also be published on our website.

6. Officer evidence

- 6.1 Your petition may ask for a senior council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, your petition may ask a senior council officer to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision.
- 6.2 If your petition contains at least 8500 signatures, the relevant senior officer will give evidence at a public meeting of the appropriate overview and scrutiny commission.[see note 4] You should be aware that the overview and scrutiny commission may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition – for instance if the named officer has changed jobs. The relevant lead councillor will also be expected to attend the meeting. Commission members will ask the questions at this meeting, but you will be able to suggest questions to the chair of the commission by contacting the overview and scrutiny co-ordination officers, telephone 255595, at least three working days before the meeting.

7. E-petitions

- 7.1 The council also plans to have in place by 15 December 2010 an e-petitions facility. Details will appear on our website later.

8. What can I do if I feel my petition has not been dealt with properly?

- 8.1 If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that one of the Council's overview and scrutiny commissions review the steps that the council has taken in response to your petition. It is helpful to everyone, and can improve the prospects for a review if the petition organiser gives a short explanation of the reasons why the council's response is not considered to be adequate.
- 8.2 The commission will endeavour to consider your request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the commission determine we have not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making

recommendations to the Council Cabinet and arranging for the matter to be considered at a meeting of the full Council.

- 8.3 Once the appeal has been considered the petition organiser will be informed of the results within 5 working days. The results of the review will also be published on our website.

9. Notes

- 9.1 **Note 1** 'Not be vexatious, abusive or inappropriate'. Vexatious means designed to cause unjustified distress, disruption or irritation to the Council, without justified cause. This definition is taken from Section 14 of the Data Protection Act (1999). The Council reserves the right to refuse a petition which falls within the following categories:
- a. It is not an issue for which a petition is the appropriate route. If this is the case, the petitioner will be advised of which method is appropriate, and will be guided through that process by the council officer
 - b. It is unclear what the substance of the petition is aimed at
 - c. It contains potentially libellous, false and defamatory statements
 - d. It is similar to or overlaps with another petition
 - e. It contains language that is offensive, intemperate or provocative
 - f. It contains material which is potentially confidential, commercially sensitive or which may cause personal distress or loss
 - g. It contains material of a party political nature
 - h. It endorses or promotes a product, service or publication or contains a statement that amounts to advertising

Note 2. Overview and scrutiny commissions are committees of councillors who are responsible for scrutinising the work of the council – in other words, the overview and scrutiny commission has the power to hold the council's decision makers to account.

Note 3. The Council Cabinet comprises the leading decision-making councillors.

Note 4. By 'senior officer' the Council means the Chief Executive, Strategic Directors, Directors and Heads of Service.