



Local Petitions and Calls for Action - Consultation

RECOMMENDATION

- 1.1 That the Commission indicates whether or not it wishes to take part in the consultation on local petitions and calls for action, and if so how members' views are to be represented.
- 1.2 That the Commission confirms whether or not it wishes to set up a sub Commission to respond to petitions.

SUPPORTING INFORMATION

- 2.1 The Department for Communities and Local Government has issued a consultation paper which seeks views on:
 - How the arrangements for local petitions can be strengthened and the details of how the new system might operate
 - The 'call for action' introduced under the Local Government and Public Involvement in Health Act 2007.
- 2.2 A copy of the consultation document is contained in Appendix 2 of this report. The deadline for responses is 20 March 2008.
- 2.3 The Commission is asked whether it wishes to respond to the consultation and if so how members' views should be represented.
- 2.4 A number of petitions have recently been referred to SMC but because these petitions are presented to scheduled meetings of the Commission, it has sometimes been several months before they are considered. To address this issue members are asked whether they wish to establish a small sub Commission to hear petitions more promptly.

For more information contact: David Romaine 01332 255598 e-mail david.romaine@derby.gov.uk
Background papers: Appendix 1 – Implications
List of appendices: Appendix 2 – Consultation document 'Local Petitions and Calls for Action'

IMPLICATIONS

Financial

1. None arising from this report.

Legal

2. None arising from this report.

Personnel

3. No significant impact. Should the Commission decide to establish a sub Commission to respond to petitions it is envisaged that it would meet on an 'as necessary' basis. Unless there is a significant increase in the number of petitions referred to SMC, it should not be necessary to hold many meetings of the sub Commission.

Equalities impact

4. It is considered that petitioners would benefit from a more prompt response of SMC to their petitions.

Corporate Objectives

5. This report has the potential to link with the following Corporate Objectives,
 - Giving you excellent services and value for money



Local petitions and Calls for Action Consultation



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Preface

This Government is determined to breathe new life into local democracy. That means giving elected local councillors the space to show a lead: less red tape from Whitehall and more freedom to spend money on local priorities. But it also means giving local people new opportunities to set the agenda for themselves, to have their say about local services and get things done on the issues they care about. Whether it's improving housing, cleaning up the streets, or getting tough with anti-social behaviour, it's often local people themselves who understand the problem best and can come up with the best solutions.

We've taken big steps towards 'devolution to the doorstep' in recent years. The 2006 Local Government White Paper *Strong and Prosperous Communities* made clear that new discretion for town halls needed to go hand in hand with greater accountability to local people. The Local Government and Public Involvement in Health Act 2007 provided a vital framework – a duty on local authorities to inform, consult and involve local people in their decisions and services, and new powers for local councillors to call for action on a broad range of local issues.

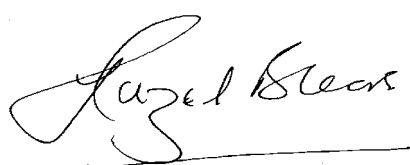
Today, we want to go further still. In *The Governance of Britain* the Prime Minister launched a national conversation about renewing our democracy, including at the local level; and in October, I published an *Action Plan for Community Empowerment*, setting out what my Department is doing to give people a real say over their neighbourhood.

This consultation takes forward one of the commitments in that plan – to look carefully at the idea of placing a duty on local authorities to respond constructively to the petitions they receive from local people.

We in the UK are some of Europe's biggest petition writers. People use petitions as a way to raise local issues they really care about – speed bumps, local shops, social care. Many local authorities already deal with petitions systematically, scrupulously and fairly.

But I want everyone, no matter where they live, to have the confidence of knowing that their concerns will be taken seriously. I believe that there is a case for acting to ensure that standards everywhere are brought up to those of the best, and am inclined to put all authorities on the same footing by providing a legislative framework for dealing with local petitions. I want to give people the chance to help shape that framework before reaching a conclusion on the best way forward.

I look forward to hearing your views.

A handwritten signature in black ink that reads "Hazel Blears". The signature is written in a cursive style with a long horizontal line underneath.

**Rt Hon Hazel Blears MP,
Secretary of State for Communities and Local Government**

Chapter 1

Introduction

1. The Governance of Britain Green Paper, published in July 2007, said that petitions can provide an important way for local communities to express their views collectively and generate local debate, and improve the connection between residents and local authorities. It added that the Government is considering the introduction of a duty requiring local authorities to consider and investigate petitions from local communities, and guarantee a response on the issues which have been raised.
2. In the Green Paper, the Government also announced its intention to consult on extending the right of people to intervene with their elected representatives through community rights to call for action.
3. This consultation paper seeks views on:
 - how the arrangements for local petitions can be strengthened and the details of how the new system might operate
 - the call for action introduced under the Local Government and Public Involvement in Health Act 2007.
4. This consultation does not cover petitions to the House of Commons or the Government, which are dealt with separately in paragraphs 157 to 163 of the Governance of Britain.

Chapter 2

The consultation criteria

5. The Government has adopted a code of practice on consultations. The criteria below apply to all UK national public consultations on the basis of a document in electronic or printed form. They will often be relevant to other sorts of consultation. Though they have no legal force, and cannot prevail over statutory or other mandatory external requirements (eg under European Community Law), they should otherwise generally be regarded as binding on UK departments and their agencies, unless ministers conclude that exceptional circumstances require a departure.
 - Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy
 - Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses
 - Ensure that your consultation is clear, concise and widely accessible
 - Give feedback regarding the responses received and how the consultation process influenced the policy
 - Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator
 - Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.
6. The full consultation code may be viewed at: http://bre.berr.gov.uk/regulation/consultation/consultation_guidance/index.asp
7. Are you satisfied that this consultation has followed these criteria? If not, or if you have any other observations about ways of improving the consultation process please contact:

Albert Joyce,
Communities and Local Government Consultation Co-ordinator
Zone 6/H10
Eland House
Bressenden Place
London SW1E 5DU

or by email to albert.joyce@communities.gsi.gov.uk

8. Please note that responses to the consultation itself should be sent to the contact shown within the main body of the consultation (page 17).
9. A summary of responses to this consultation will be published by 12 June 2008 (within three months of end of consultation period) at the address below.

www.communities.gov.uk/corporate/publications/consultations/

Paper copies will be available on request.

10. Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).
11. If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.
12. The Department will process your personal data in accordance with the DPA and, in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

Chapter 3

Local petitions

Evidence for change

13. There is evidence that a formal process for handling petitions adds value to public life. In 2005, 38 per cent of respondents to the Citizenship Survey said they had undertaken a civic activity. 60 per cent of them claimed that they had signed a petition in the previous twelve months. Petitioning was the most commonly undertaken of the nine activities grouped under civic engagement for the purposes of this survey.
14. Qualitative research in 2006 found that participants felt that petitions were a good method for bringing issues to the attention of local government. However, they were sceptical about local government's ability or willingness to act on or be responsive to petitions¹.
15. Overall, research indicates that responsiveness is a key element to petitions' political efficacy, whether in the form of a formal response from the governance body concerned, or of a referendum or ballot to decide the issue.
16. Petitioning is used in a number of countries as a trigger leading to electoral action, typically in the form of a referendum – Switzerland and the USA are typical examples. These can be either citizens' initiatives or popular referendums. In some instances, the referendums are binding. Petitions can also be used to initiate recall ballots. This system is used in the USA (at state and local/municipal levels), and in British Columbia, Canada.
17. Other jurisdictions, for example Scotland and Queensland, have formal petitioning systems which do not lead to ballots. Instead, the petitioner can expect a response from either the relevant committee or MP. In these examples, a response is not guaranteed.
18. Political parties and campaign groups in countries where petitioning is a well-established feature of the democratic landscape have become adept at using petitions to further their own agendas. They can also counteract a petition campaign, either through developing a counter proposal or by demobilising support for the petition. The evidence therefore indicates that petitioning (as a tool of direct democracy), can support representative democracy.

¹ BMG, 2006

General principles underpinning a new duty

19. The Government believes that there should be a duty on local authorities to respond to petitions in the following circumstances:

(a) The subject of the petition relates to the functions of the local authority, or other public services with shared delivery responsibilities with the local authority through the Local Area Agreement or other partnership arrangement

20. Local authorities have a wide range of functions, which include the promotion of the social, environmental and economic wellbeing of the area and its people. They are the “place shapers” for their area, and this has been reinforced by provisions of the Local Government and Public Involvement in Health Act 2007, which require a long list of partner organisations to cooperate with the local authority in developing the Sustainable Community Strategy for the area, and in setting local improvement targets. The role of local authorities has also been reinforced by the Sub National Review published in July 2007.
21. The Government’s proposal is that local authorities should be required to respond to any petition that asks them to consider any issue which falls within their broad functions as outlined above. Petitions which would more properly be dealt with by another public body – and raise issues which relate neither to local improvement targets agreed by that body, nor to the area’s sustainable community strategy – would fall outside the proposed new duty.
22. An important example of this principle will arise in the context of education services. A local authority would not be required to respond to a petition which raises issues which can only be addressed substantively by the governors and head-teacher of a particular school. On the other hand, the duty would apply where the petition relates to the education functions of the local authority.

(b) The petition has been organised by a local person

23. It is proposed that there should be nothing to prevent local petitioners from invoking the help of national organisations having wider interests – but that the organiser-of-record of a local petition should be a local person. It is that person who should present the petition to the local authority. We would welcome views about how “local person” should be defined. Obvious options are:
- (a) a person appearing in the electoral register for the local authority’s area
 - (b) any adult who lives or works in the area at the time the petition is submitted, or
 - (c) any adult who has lived or worked in the area for at least a qualifying period of time before the petition is submitted.

24. Options (b) and (c) might both be extended to anyone who attends a school or college in the area, in order to make this form of engagement available to children. We would welcome respondents' views on that possibility.

(c) The petition demonstrates a sufficient level of support from local people

25. On the one hand, requiring local authorities to respond to all petitions, even those with a minimum level of support, could impose unnecessary processes and costs. On the other, setting a very high level of support as a requirement for a petition to receive a formal response would frustrate the underlying purpose of the policy. There are three possible approaches to setting a threshold of a sufficient level of support. They are to define:
- in absolute terms the number of relevant signatories that a qualifying petition must have (for example, "at least 250 signatures"); or
 - a qualifying petition as one that has the signatures of a given proportion of those whose signatures are regarded as relevant (for example, at least 1 per cent of the electorate of the area in question). This could make it difficult for the petition organiser to know how many signatures were required for the petition to be valid; or
 - an absolute number, or a given proportion of the population, whichever is the lower (for example. "200 signatures or 5 per cent of the population" would mean that communities of less than 4,000 people would have to find fewer than 200 signatures).

Signatures

26. In the above options, a "relevant" signature could be regarded as that either of:
- (a) an elector of the area; or
 - (b) anyone who lives or works in the area.

Support would have to be reasonably current (eg signature within the last 12 months).

27. We would, in either case, want to consider options for extending the range of relevant signatures to local children who either live in the area, or attend school there. We would welcome respondents' views on that possibility.
28. Support for petitions might take the traditional form (signature, date, and address), but we would want to allow for electronic petitions too, and would be glad to have respondents' views on how they might work.
29. We believe local authorities should be entitled to accept signatures without further validation if they have no reason to doubt them; but should be empowered to investigate if they felt it necessary, and to strike them out if appropriate.

(d) The petition satisfies minimum requirements in relation to

i) The manner in which it was submitted

ii) its form

iii) its content

30. It is proposed that petitioners ought to be able to present their petitions either to the council, or to one of its councillors.

31. Councils and their councillors would be under a general duty to consider whether any request or document they receive is a petition. We would hope to avoid technicalities here. The word “petition” would, we hope, have a plain English meaning; we would probably not seek to define it in statute. Where a council or councillor is of the view that a document is a petition, that decision would trigger the petition provisions.

32. We take the view that a petition should at least contain:

- (a) the proposition which it promotes
- (b) the name and address of the organiser
- (c) the local authority from which a response is sought (and, if more than one, all the local authorities to which it has been submitted)
- (d) the area to which it relates (ie the whole authority, or a defined area forming part of it)
- (e) the names, addresses and signatures of those who support it (or, in the case of an electronic petition, their names, addresses and email addresses).

Guidance

33. We believe that the Secretary of State should have the power to issue guidance about all aspects of the process.

Chapter 4

Calls for action

The Councillors' Call for Action

34. In the recent Local Government and Public Involvement in Health Act 2007, Parliament amended section 19 of the Police and Justice Act 2006 – before, indeed, it had come into force – to align it with the provision in section 119 of the 2007 Act. All councillors are thus empowered to refer local government matters and local crime and disorder matters for consideration by the relevant overview and scrutiny committees of their local authorities.
35. The result amounts to a **“councillor call for action”**. Any councillor will be able to refer a local matter affecting his or her ward or division to the appropriate overview and scrutiny committee of his or her authority. In the case of a local crime and disorder matter, that will be to the authority's crime and disorder committee.
36. The committee is required then to put the matter on its agenda, and discuss it at a meeting. It is not to be required to take any further action; but all the powers it has – to mount inquiries, to require information, and to make reports and recommendations – are to be available to it, if it decides to take the matter up.
37. The power to refer a matter is available only where the matter is of direct concern to the ward or division which the councillor represents. A councillor can refer a matter even if no citizen has asked him or her to consider it. There is no requirement for councillors in multi-member wards to agree – any of them can refer a matter.
38. A local government matter, in relation to a member of a local authority, is defined as a matter which:
 - (a) relates to the discharge of any function of the authority
 - (b) affects all or part of the electoral area for which the member is elected or any person who lives or works in that area, and
 - (c) is not an excluded matter.

A local crime and disorder matter, in relation to a member of a local authority, has been defined to mean a matter concerning:

- (a) crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment), or
- (b) the misuse of drugs, alcohol and other substances

that affects the electoral area represented by the member, or the people who live or work in that area.

39. It will no doubt happen that some local issues have implications in more than one field. The Government's view is that, in such a case, the councillor would be entitled to refer it to every overview and scrutiny committee which covers some aspect of the issue. In practice, committees will, no doubt, take the sensible decision to join forces in order to consider such matters in the round.

Excluded matters

40. The Secretary of State has power to exclude by order specified descriptions of matter that would otherwise be "local government matters". This was included primarily so that confusion could be avoided between calls for action and well-defined statutory processes such as planning and licensing appeals. We now wish, as part of this consultation, to seek views about exactly what ought to be excluded, and why.

Guidance

41. The Secretary of State is empowered to issue statutory guidance for local authorities, their committees, and their members. She intends to do so when these measures are brought into force. Respondents are invited to highlight the key issues on which guidance (whether statutory or not), would be helpful.

Empowering communities to call for action

42. In the *Governance of Britain* green paper, Government highlighted its desire to achieve greater direct empowerment of communities, and undertook to consult on a number of areas, including "extending the right of people to intervene with their elected representatives through community rights to call for action".

43. Having established a *councillor* call for action (in law, if not yet in practice), we take the view that a duty on local authorities to respond to qualifying local petitions would amount to a *community* call for action – albeit a call made by a community of interest. We should, however, like to hear views on whether other steps should be considered as well.

Chapter 5

Consultation questions

44. We wish to take the views of citizens, local authorities, councillors and community organisations on all the details of the proposals set out in this document, but particularly on the following questions.

Petitions

- (a) The Government believes there should be a statutory duty on local authorities to respond to local petitions. What conditions must be met before a local authority is required to respond formally to a petition? (*Paragraph 19*)
- (b) In particular, how should we define the level of support required before a petition must get a formal, substantive response?
- By a fixed number of signatures?
 - By a percentage of the electorate in the area?
 - By a hybrid of the two?
 - Or in some other way? (*Paragraph 25*)

Calls for action

- (d) What if any matters should be excluded from the call for action? (*Paragraph 40*)
- (e) What guidance should Government provide on the operation of the councillor call for action? (*Paragraph 41*)

Overall

- (f) Taken together, would petitions and calls for action sufficiently empower communities to intervene with their elected representatives? Should we contemplate other measures? (*Paragraph 43*)
- (g) Do you have other views on the operation of the new duty to respond to petitions and the call for action?

Chapter 6

How to submit your views

Responses from individuals and organisations may be submitted in writing to the Department for Communities and Local Government.

Comments should be received no later than 20 March 2008 and should be sent to:

Rosie Milner
Communities and Local Government
5th floor, Zone F8
Eland House
Bressenden Place
London SW1E 5DU

or emailed to:

petitions@communities.gsi.gov.uk

The consultation document and its response form can be downloaded from the consultations page on the Communities and Local Government website (www.communities.gov.uk). For details of how to order hard copies see the inside front cover.

This consultation is available on request in alternative formats.

We may publish or make public the responses and comments received. If you do not consent to this, you must clearly request that your response be treated confidentially. Any confidentiality disclaimer generated by your IT system in email responses will not be treated as such a request.

If you wish your response, if published, to be unattributable, please let us know when you send it to us. Unattributable responses may also be included in any statistical summary of comments received and views expressed.

Next steps

The consultation will run until 20 March 2008. Once this deadline has passed, Government will consider the responses received by that date and issue a report on the consultation by 12 June 2008.

Regulatory Impact Assessment

An Impact Assessment has not been produced as the cost to the public sector is likely to be less than £5 million per annum and the impact on the private and third sectors is likely to be negligible and currently unquantifiable. We would welcome suggestions as to how such impacts might be determined and will consider the need for an Impact Assessment as we take this policy forward.