

## GENERAL PURPOSES AND LICENSING COMMITTEE – 11 JUNE 2010

### DUTY TO RESPOND TO PETITIONS

#### 1. INTRODUCTION

- 1.1 The Local Democracy, Economic Development and Construction Act 2009, amongst other things, places a statutory duty on local authorities to respond to petitions. This includes requirements to: -
- Publish a petitions scheme; and
  - Provide an e-petitions facility.
- 1.2 The Act aims to reconnect people with political decision-making by providing more opportunities to influence decisions that affect the local area. Provision of a facility to make petitions is seen as one way for local residents to express their views to the local authority and to get involved in the democratic process.

#### 2. BACKGROUND

- 2.1 The general petitions duty comes into force on 15 June 2010, and the e-petitions duty on 15 December 2010. Statutory guidance has been issued by the Department for Communities and Local Government (DCLG).
- 2.2 The Council's Standing Orders include provision for accepting and dealing with petitions. Standing Order 23 provides that petitions signed by at least 10 residents of the District –
- (a) may be presented at a Council, Committee or Panel meeting, subject to certain conditions, including that the petition shall relate to a local government matter affecting the District
  - (b) urgent petitions may be dealt with at a meeting of the Council but, if the petition is not urgent, the matter is referred to the Cabinet, Committee or Panel under whose terms of reference the matter falls
  - (c) the Council may not reach a decision on a matter which is reserved to the Cabinet.
- 2.3 Changes to the way the Council deals with petitions are needed to comply with all the provisions of the Act and the statutory guidance. The Council must also now take steps to provide an e-petitions facility.
- 2.4 This report asks members to consider: -
- A new petitions scheme, with consequential amendments to the Council's Standing Orders for Meetings;
  - Amendments to the terms of reference of Review Panels;
  - Proposals to meet the e-petitions requirements of the Act

and to make recommendations to the Council.

### **3. REQUIREMENTS OF THE ACT**

3.1 The requirements placed on local authorities with regard to petitions include:

- To adopt a petition scheme that sets out how the Council will respond to petitions. This scheme must be approved by full Council. The scheme must be published on the Council's website.
- When designing its scheme, the Council must ensure that it is locally appropriate, accessible and easy to use. Any thresholds set must also be locally achievable.
- The Council must respond to a petition organised or signed by anyone who lives, works or studies in the area. This includes under-18s. Petitions must be acknowledged within a time period set by the Council.
- The Council must provide an on-line petition facility which allows anyone to set up a petition on the authority's system, and allows anyone to "sign" the petition on-line.
- The scheme should not set a threshold on the number of signatures required to request the Council to take action, so making it responsive to local issues.
- The scheme should set thresholds for petitions –
  - (a) requiring a debate by full Council and
  - (b) holding senior officers to account at the relevant scrutiny committee.
- The scheme should allow the petition organiser the right of appeal, so that if the petition organiser requests, the relevant scrutiny committee can review the adequacy of the steps taken in response to the petition.
- The Council must decide what counts as an authentic signature. This should apply to all petitions including e-petitions.
- The Council should nominate an appropriate officer to decide whether a petition can be excluded on the grounds that it is vexatious, abusive or otherwise inappropriate. It is recommended that the Chief Executive or the Monitoring Officer be designated as the appropriate officers for this purpose.

3.2 Irrespective of the thresholds that are required to trigger various responses, the statutory guidance stresses that local authorities should approach their petition schemes from the starting point of responding to all the petitions they receive.

### **4. ISSUES TO CONSIDER**

4.1 For purposes of discussion, a suggested petitions scheme is attached to this report as Appendix 1. The scheme at Appendix 1 has been based on the model included in the statutory guidance and meets the requirements of the new legislation. There are however, a number of issues which members are asked particularly to consider:

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#### **4.2 Petition Thresholds**

4.2.1 The model scheme sets out the thresholds that local authorities are advised to use when setting the numbers of signatures that trigger various responses to a petition:

- (a) **Signatures required for matter to be debated at full Council** – the Act sets a maximum of 5% of the population, but the statutory guidance suggests that 1% is more appropriate (in NFDC this would be 1,700)
- (b) **Signatures required to call for evidence from a senior officer** - the threshold in the Act is 0.5% of the population. This is replicated in the model scheme (in NFDC this would be 850).

4.2.2 The Committee is asked to consider the thresholds that should apply to each of the above. The statutory guidance states that, when setting the petitions thresholds, the Council must take account of local circumstances. The Secretary of State has the power to request an authority to amend their thresholds if they are deemed inappropriate.

### **4.3 Petitions requesting action by the Council**

4.3.1 The statutory guidance encourages Councils not to set a threshold for simple petitions requesting action. However, there is no definition of “petition” so it is suggested that, to identify what should be regarded as a petition, the Council applies the criteria currently in its Standing Orders of requiring a petition to contain at least 10 signatures.

### **4.4 Requirements on scrutiny committees and senior officers**

4.4.1 The petitions scheme must allow petitioners (who have obtained the required number of signatures, as set out in the petitions scheme) to request that a senior officer of the Council attend a meeting of a relevant overview and scrutiny committee to answer questions about their work. (Scrutiny Committees can already require members and officers to attend a meeting and give evidence.)

4.4.2 It is for local authorities to determine which of their officers are able to be called in this way. The guidance suggests that names and job titles should be included in the petitions scheme but the Committee is invited to consider whether it thinks job titles sufficient. The Act provides that, as a minimum, petition schemes must provide for the head of the paid service (the chief executive) and the most senior officers responsible for the delivery of services to be required to provide information on their activities at public meetings of overview and scrutiny committees.

4.4.3 Notwithstanding the previous paragraph, final decisions on which officer should attend, and the questions to be asked of him or her, rest with the overview and scrutiny committee. An overview and scrutiny 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 instead of an officer who might be named in a petition.

4.4.4 It is recommended that the officers who may be called in response to specific request in a petition be:

- Chief Executive
- Executive Directors
- Heads of Service

4.4.5 It is for the scrutiny committee to determine the questions to be asked. The scrutiny committee can also decide to call a relevant elected member with responsibility for the service area in question to attend.

4.4.6 The scrutiny committee must report or make recommendations to the Council and send a copy of that to the petition organiser.

#### **4.5 Entitlement to Review**

4.5.1 A petition organiser is now able to ask a relevant scrutiny committee to review the Council's response to a petition. In these circumstances, the scrutiny committee must decide whether the steps taken in response to the petition were adequate. If the committee decides that appropriate steps were not taken, it can call for either a full review to be undertaken or arrange for the petition to be discussed at a full Council meeting. The terms of reference of the Council's Review Panels (scrutiny committees) need to be amended to accommodate these requirements.

#### **4.6 E-Petitions**

4.6.1 Authorities are required to provide an e-petition facility to allow citizens to create a petition which can be published online and made available to others for electronic signature.

4.6.2 The Council must decide what counts as an authentic signature for e-petitions. It is suggested that a name, email address, and postal address (including postcode), should qualify as a valid signature.

4.6.3 It will be necessary to acquire software to manage this process. Officers are currently investigating possible suppliers and an oral report will be made to the meeting.

### **5. FINANCIAL IMPLICATIONS**

5.1 There will be costs involved in purchasing and managing software for the e-petitions facility. Initial estimates indicate purchase prices between £3,000 and £5,000, with annual maintenance fees between £500 and £2,000. If this cannot be funded from the ICT work programme during the current year, a supplementary budget will be required.

5.2 Depending on the takeup of the new scheme, there might be increased pressure on member and officer resources in responding to petitions.

### **6. ENVIRONMENTAL IMPLICATIONS**

6.1 Submitting petitions and responding to petitions on-line might decrease paper usage. However, more meetings and more travel might be required as a result.

### **7. CRIME AND DISORDER IMPLICATIONS**

7.1 There are no crime and disorder implications arising from this report.

## **8. EQUALITY AND DIVERSITY IMPLICATIONS**

8.1 Provision of an e-petitions facility should widen access to the democratic process.

## **9. RECOMMENDATIONS**

9.1 That it be recommended to the Council that:

- (a) the Chief Executive and the Monitoring Officer be designated as the appropriate officers to decide whether a petition can be excluded on the grounds that it is vexatious, abusive or otherwise inappropriate.
- (b) the Chief Executive, the Executive Directors and the Heads of Service be designated as the senior officers who may be required to attend a public meeting of an overview and scrutiny committee to answer questions about their work.
- (c) subject to any changes that the Committee considers appropriate, the petitions scheme set out in Appendix 1 be approved and adopted as this council's petitions scheme required under Section 11 of the Local Democracy, Economic Development and Construction Act 2009;
- (d) the Council's Standing Orders for Meetings be amended as set out in Appendix 3 to this report;
- (e) the terms of reference of Review Panels be amended as set out in Appendix 4 to this report; and
- (f) investigations continue into the acquisition of software to manage the new e-petitions duty, so that a facility is available by 15 December 2010.

### **For Further Information Please Contact:**

Rosemary Rutins  
Democratic Services Manager  
Tel: (023) 80285381  
Email: [rosemary.rutins@nfdc.gov.uk](mailto:rosemary.rutins@nfdc.gov.uk)

### **Background Papers:**

Published documents

**NEW FOREST DISTRICT COUNCIL**  
**PETITIONS SCHEME**

**1. PETITIONS**

The Council welcomes petitions from people who live, work or study in the area. We recognise that petitions are one 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, or if it seems to us that it is intended to be a petition, and is signed by at least 10 people who live, work, or study in the area.

Paper petitions can be sent to:

The Democratic Services Manager, New Forest District Council, Appletree Court, Beaulieu Road, Lyndhurst, SO43 7PA

or be created, signed and submitted online by following this link [not yet available].

Petitions that contain the required number of signatures as set out in paragraph 5 below can also be presented to a meeting of the Council. These meetings take place approximately every 2 months, dates and times can be found on the Council's website [www.newforest.gov.uk](http://www.newforest.gov.uk) If you would like to present your petition to the Council, or would like your councillor or someone else to present it on your behalf, please contact Rosemary Rutins/Melanie Stephens on 0238028 5381/5379 at least 10 working days before the meeting and they will talk you through the process.

**2. WHAT ARE GUIDELINES FOR SUBMITTING A PETITION?**

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
- the name and address and signature of any person supporting the petition. These should be people who live, work or study in the area.

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. The contact details of the petition organiser will not be placed on our website. If the petition does not identify a petition organiser, we will contact 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. 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 timescales 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.

### **3. WHAT WILL THE COUNCIL DO WHEN IT RECEIVES MY PETITION?**

An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. It will let them 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 acknowledgment 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 (see paragraph 6), then the acknowledgement 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.

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.

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.

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.

### **4. HOW WILL THE COUNCIL RESPOND TO PETITIONS?**

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 the appropriate Review Panel\*
- calling a referendum
- writing to the petition organiser setting out our views about the request in the petition

\* Review Panels are committees of councillors who are responsible for scrutinising the work of the Council – in other words, they have the power to hold the Council's decision-makers to account.

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 these partners 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.

If your petition is about something that a different council is responsible for we will consider 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**

If a petition contains more than 1,700 signatures (approximately 1% of the population of the District) it will be debated by the full Council unless it is a petition asking for a senior 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. The petition organiser will be given 5 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 the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation in to the matter, for example by a relevant committee. Where the issue is one on which the Cabinet is required to make the final decision (the Cabinet is responsible for the executive functions of the Council), the Council will refer the matter to the Cabinet. The Council will decide whether to make recommendations to the Cabinet to inform that decision. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

## **6. OFFICER EVIDENCE**

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.

If your petition contains at least 850 signatures (approximately 0.5% of the population) and gives grounds for your request (which must relate to the discharge of functions for which the officer is responsible), the relevant senior officer will give evidence at a public meeting of the relevant \*Review Panel. Senior staff who can be called to give evidence are the Council's Chief Executive, the Executive Directors or the Heads of Service as considered appropriate by the Chairman of the appropriate Review Panel. These are set out in Appendix 1 to this Scheme.

You should be aware that the Review Panel may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition. The Panel may also decide to call a relevant councillor to attend the meeting. Councillors will ask the questions at this meeting, but you will be able to suggest questions to the chairman of the Panel by contacting the chairman up to three working days before the meeting.



(\*Review Panels are committees of councillors who are responsible for scrutinising the work of the Council – in other words, they have the power to hold the Council’s decision-makers to account.)

## **7. E-PETITIONS**

The Council welcomes e-petitions which are created and submitted through our website [not yet available]. E-petitions must follow the same guidelines as paper petitions, as set out above. The petition organiser will need to provide us with their name, postal address and e-mail address. You will also need to decide how long you would like your petition to be open for signatures. Most petitions run for 6 months, but you can choose a shorter or longer timeframe, up to a maximum of 12 months.

When you create an e-petition, it may take 5 working days before it is published online. This is because we have to check that the content of your petition is suitable before it is made available for signature.

If we feel we cannot publish your petition for some reason, we will contact you within this time to explain. You will be able to change and resubmit your petition if you wish. If you do not do this within 10 working days, a summary of the petition and the reason why it has not been accepted will be published under the ‘rejected petitions’ section of the website.

When an e-petition has closed for signature, it will automatically be submitted to [not yet available]. In the same way as a paper petition, you will receive an acknowledgement within 10 working days. If your petition has received the required number of signatures, and if you would like to present it to a meeting of the Council, please contact Rosemary Rutins/Melanie Stephens (details above) within 10 working days of receipt of the acknowledgement.

A petition acknowledgement and response will be e-mailed to everyone who has signed the e-petition and who has chosen to receive this information. The acknowledgement and response will also be published on the Council’s website.

## **8. HOW DO I “SIGN” AN E-PETITION?**

You can see all the e-petitions currently available for signature here [not yet available].

When you sign an e-petition you will be asked to provide your name, address, postcode and a valid e-mail address. When you have submitted this information you will sent an e-mail to the e-mail address you have provided. This e-mail will include a link which you must click on in order to confirm the e-mail address is valid. Once this step is completed your “signature” will be added to the petition. People visiting the e-petition will be able to see your name in the list of those who have signed it but your contact details will not be visible.

## **9. WHAT CAN I DO IF I FEEL MY PETITION HAS NOT BEEN DEALT WITH PROPERLY?**

If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that a relevant Review Panel reviews 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.

The relevant Panel 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 Panel 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 executive (Cabinet) and arranging for the matter to be considered at a meeting of the full Council.

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.

## APPENDIX 1 TO PETITIONS SCHEME

### **OFFICERS WHO MAY BE REQUIRED TO APPEAR BEFORE AN OVERVIEW AND SCRUTINY COMMITTEE AS A RESULT OF A PETITION UNDER SECTION 16 OF THE LOCAL DEMOCRACY, ECONOMIC DEVELOPMENT AND CONSTRUCTION ACT 2009**

Chief Executive  
Executive Director  
Executive Director (Section 151 Officer)  
Head of Communities and Employment  
Head of Customer Services  
Head of Environment Services  
Head of Housing Services  
Head of Human Resources  
Head of ICT Services  
Head of Legal and Democratic Services  
Head of Leisure Services  
Head of Performance and Strategic Development  
Head of Planning and Transportation  
Head of Property Services  
Head of Public Health and Community Safety

**PROPOSED AMENDMENTS TO STANDING ORDERS FOR MEETINGS**

**1. Delete Standing Order 23:**

**23. ~~Petitions - notice~~**

~~23.1 Subject to 23.2 and 23.3, any member of the Council, or any member of the public, may present a petition at a Council, Committee or Panel meeting, on the following conditions:~~

- ~~(a) the nature and objects of the petition shall relate to local government matters concerning the District; and~~
- ~~(b) the person desiring to present the petition shall give the Chief Executive ten clear working days notice in writing; and~~
- ~~(c) the notice shall include a written statement of the nature and objects of the petition; and~~
- ~~(d) the petition shall be signed by at least ten residents of the District.~~

~~Note: See Standing Order 38 for procedure for presenting petitions at the Council meeting.~~

~~23.2 Petitions under Standing Order 23.1 shall not be put to the Annual Council Meeting, or to the Annual Meeting of the Cabinet, a Committee or Panel held immediately after the annual Council Meeting.~~

~~23.3 A petition shall not be put to an extraordinary or special Council meeting, or to a special Cabinet, Committee or Panel meeting, unless, in the Chief Executive's opinion, it is relevant to a subject specified or to be specified on the summons or agenda for that meeting.~~

~~23.4 Where:~~

~~the subject of a petition is of a quasi-judicial nature, and the Monitoring Officer considers presenting it would prejudice any legal proceedings to be taken by the Council; or~~

~~the petition refers to legal proceedings being taken, or anticipated to be taken, by or against the Council,~~

~~the petitioner shall be advised, and the petition shall not be entertained.~~

**2. Amend Standing Order 34 by the substitution for 34.1(h) of the words in bold italics:**

**34. Order of Business**

Those marked \* apply to Council meetings only. The rest apply to all meetings.

34.1 Subject to Standing Order 35, the order of business at every meeting shall be:

- (a) To choose a person to preside if the Chairman and Vice-Chairman is absent.
- (b) To deal with any business statute requires to be done before any other business.
- (c) To approve as a correct record and sign the minutes of the last meeting **(Standing Order 36)**.
- (d) To allow members to declare personal and prejudicial interests **(Standing Order 37)**.
- (e) To deal with any business statute expressly requires to be done.
- (f) Chairman's announcements.
- (g) \* Leader of the Council's announcements **(Standing Order 37A)**
- ~~(h) \* To receive petitions of which notice has been given under Standing Order No. 23 **(Standing Order 38)**.~~
- (h) To receive petitions requiring consideration by the Council under the Council's Petitions Scheme.**
- (i) To dispose of any business remaining from the last meeting.
- (j) \* To review decisions taken at a previous Council meeting where the Council has not adopted any recommendation of Cabinet.
- (k) \* To receive and consider reports and recommendations of:
  - (i) The Cabinet
  - (ii) Committees
  - (iii) Review Panels **(Standing Order 39)**.
- (l) \* To answer questions asked under Standing Order No. 22 **(Standing Order 40)**.
- (m) \* To consider motions of which notice has been received under Standing Order 21 **(Standing Order 41)**.
- (n) \* To answer questions asked under Standing Order No. 22A **(Standing Order 40A)**.
- (o) Any other business stated in the summons.
- (p) Any other items which the Chairman decides are urgent **(Standing Order 42)**.

3) ***By the substitution of Standing Order 38 with the wording set out in bold italics:***

~~38. Presenting petitions~~

~~38.1 A member of the public presenting a petition may speak for no more than three minutes when presenting the petition. No more than two persons may present a petition. If both persons speak, the length of both speeches added together shall not exceed three minutes.~~

~~38.2 No more than two petitions may be presented at any meeting.~~

~~38.3 The Chairman shall consider whether or not a petition presented at a Council meeting is urgent.~~

~~If it is, the Council shall consider it, subject to 38.4 and 38.5.~~

~~If it is not, it shall be referred to the Cabinet, Committee or Panel within whose terms of reference it falls.~~

~~38.4 Where a petition affects the Council's approved strategies, policies or budgets, the Council shall not make a final decision until the Cabinet has had the opportunity to consider and make recommendations on the issue to the Council.~~

~~38.5 After considering a petition, the Council may not reach a decision on a matter which is reserved to the Executive.~~

~~38.6 Standing Order 23.3 also applies to this Standing Order.~~

**38. Presenting Petitions**

**38.1 *Where a petition containing the required number of signatures under the Council's Petitions Scheme is received, and subject to compliance with other requirements of the Petitions Scheme, the petition organiser or his or her nominee may present the petition for a maximum of five minutes. No more than two persons may present a petition. If both persons speak, the length of both speeches added together shall not exceed five minutes.***

**38.2 *Councillors may debate the petition for a maximum of 15 minutes.***

**38.3 *No more than two petitions may be presented at a meeting of the Council.***

**38.4 *Where a petition affects the Council's approved strategies, policies or budgets, the Council shall not make a final decision until the Cabinet has had the opportunity to consider and made recommendations on the issue to the Council.***

**PROPOSED AMENDMENTS TO TERMS OF REFERENCE OF  
REVIEW PANELS**

**Add:**

- 2(xviii)**     ***“To require a relevant senior officer of the Council set out in the council’s petitions scheme to give evidence to the Panel in the event of a petition calling for a senior officer to be called to account under the provisions of section 16 of the Local Democracy, Economic Development and Construction Act 2009.”***
- 2(xix)**     ***“To review the adequacy of steps taken in response to a petition where a request for a review is received under Section 17 of the Local Democracy, Economic Development and Construction Act 2009.”***