

CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting: 20th September 2012
Report of: Borough Solicitor
Subject/Title: Petitions - The Local Democracy, Economic Development and Construction Act 2000, the Local Authorities (Petitions) (England) Order 2010 and the Localism Act 2011

1.0 Report Summary

- 1.1 The Local Democracy, Economic Development and Construction Act 2009 placed a duty on Councils to promote local democracy and introduced facilities for receiving and dealing with petitions and e petitions.
- 1.2 Under the Local Authorities (Petitions) (England) Order 2010 and in accordance with Statutory Guidance the Council approved its Petition Scheme on 27th May 2010. On 1st December 2010 the Council revised the Scheme to include provision for e petitions.
- 1.3 Section 46 of Chapter 10 of the Localism Act 2011 repeals the provisions relating to facilities for receiving and dealing with petitions and e petitions. In the light of these changes this report invites the Committee to revise the scheme for dealing with petitions.

2.0 Recommendations

2.1 That

(1) the Council's petitions scheme be amended to:

- (a) remove the right of a petitioner to request an overview and scrutiny committee to review the steps taken or action proposed by the Council;
- (b) remove the provisions to hold an officer to account; and

(2) the revised petitions scheme as set out in Appendix 1 be approved and the Borough Solicitor be requested to amend the Constitution accordingly.

3.0 Reasons for Recommendations

- 3.1 Petitions are the most widely used form of civic action by individuals and communities to make representations to different public bodies on

matters affecting them. The Council should retain a Petitions Scheme but revise it to meet the needs of Cheshire East.

4 Wards Affected

4.1 All

5.0 Local Ward Members

5.1 All

6.0 Policy Implications including

6.1 Not applicable.

7.0 Financial Implications

7.1 The Council's Modern.gov agenda management system was upgraded at no extra cost with an e-Petitions module. The cost of controlling, moderating and dealing with paper and e petitions is being met from within existing resources.

8.0 Legal Implications (Authorised by the Borough Solicitor)

8.1 Chapter 2 of Part 1 of the Local Democracy, Economic Development and Construction Act placed a duty on the Council to have a Scheme in place to handle petitions and to provide a facility for making electronic petitions to the authority. The Local Authorities (Petitions) (England) Order 2010 required the Council to adopt a Petitions Scheme by the 15th June. The order required e petitioning to be introduced by 15th December 2010. Section 46 of Chapter 10 of the Localism Act repeals the provisions about petitions to local authorities. The Council is therefore free to determine its own arrangements.

9.0 Risk Management

9.1 The Council moderates petitions and has developed criteria to be established to decide if a petition should be rejected. This covers petitions that do not reflect the views of the Council or those which are politically motivated. Democratic Services provide guidance for the public on submitting a petition or e petition.

10 Background and Options

10.1 The Local Authorities (Petitions) (England) Order 2010 placed specific requirements on the Council. These included requirements about the way petitions should be categorised. These were as follows:-

- a. "Petitions for Debate" must be reported to and debated at full Council;

- b. "Petitions to hold an Officer to Account" trigger an open meeting of an Overview and Scrutiny Committee at which the named officer will report and be questioned on their actions
 - c. "Exempted Petitions" – Petitions received in response to statutory consultation for example on planning and licensing applications will continue to be reported to Planning and Licensing Committees or other appropriate Committee
 - d. "Ordinary Petitions", for which the authority can determine how these petitions will be handled.
- 10.2 The Councils Petition Scheme also allows that if a petitioner so requests, an Overview and Scrutiny Committee may review the steps taken or action proposed to be taken by the Council in respect of "Ordinary Petitions".
- 10.3 The majority of Petitions are 'ordinary petitions' and usually have a low number of signatures generally less than 1000. These are dealt with by Portfolio Holders and Heads of Service and Local Ward members are notified of progress.
- 10.4 Normally the Council will attempt to resolve the petitioners' request directly, through the relevant Portfolio Holder or officer taking appropriate action. For example where the petition relates to fly-tipping and the authority can arrange for it to be cleared up directly. Where this is done, the Petitions Officer will ask the petition organiser whether s/he considers that the matter is resolved. In this regard the Councils Petition Scheme has operated successfully.
- 10.5 In a previous report this Committee was invited to consider if there was any evidence to suggest that "Petitions for Debate" and "Petitions to hold an Officer to Account" made a significant difference to the way in which this Council dealt with Petitions and if these aspects of the Scheme should be abandoned and replaced with an alternative provision. The Committee resolved that views of Corporate Management Team and Cabinet on the proposals contained in this report.
- 10.6 The views of views of Corporate Management Team and Informal Cabinet are that if a petition has in excess of 3000 signatories and if a petitioner so requests, Council should debate the matter before it is referred on to the appropriate decision-maker for determination on the grounds that a petition of this size would be a significant matter worthy of debate at a full meeting of Council.
- 10.7 In respect of the right of a petitioner to request, an Overview and Scrutiny Committee to review the steps taken or action proposed to be taken by the Council or to hold an officer to account, Corporate Management

Team and Informal Cabinet have recommended that these should be removed.

10.8 A revised Petitions Scheme is enclosed at Appendix 1.

11.0 Access to Information

11.1 The background papers relating to this report can be inspected by contacting the report writer:

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Appendices:

Appendix 1 A revised Petitions Scheme