

COUNCIL

15 July 2010

Agenda Item 16

Brighton & Hove City Council

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| Subject: | Petitions Scheme | |
| Date of Meeting: | 15 July 2010 | Council |
| | 13 July 2010 | Governance Committee |
| Report of: | Director of Strategy and Governance | |
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| Wards Affected: | All | |

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 The Local Democracy, Economic Development and Construction Act 2009 ("the Local Democracy Act") sets out new statutory requirements for councils in relation to handling petitions, including a requirement to adopt a Petitions Scheme. This report explains the new provisions and makes recommendations for the adoption of a Petitions Scheme for Brighton & Hove City Council.
- 1.2 The Petitions Scheme proposed for Brighton & Hove goes much further than the minimum requirements of the legislation. The introduction of the Scheme has been taken as an opportunity to support the Council's work on improving customer engagement and to offer the public as wide access as possible to influence council decision making.

2. RECOMMENDATIONS:

2.1 That Governance Committee recommends to Council:-

- (1) That the Petitions Scheme attached as Appendix One be adopted as the Council's scheme for handling petitions pursuant to S11 Local Democracy Act 2009;
- (2) That the Council's constitution be amended in accordance with the draft amended Procedure Rules attached at Appendix Two.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 On 22nd September 2009 Governance Committee approved the launch of a trial e-petitions scheme and agreed the guidance which would govern the scheme. This was reviewed and extended in April 2010.
- 3.2 There has been a good level of demand for the e-petitions facility which is likely to increase as, during the trial period, the availability of the online facility has not

been strongly marketed to allow time for the software and management of the system to be tested.

- 3.3 One of the drivers for introducing e-petitions for the Council was the anticipation of new statutory duties in relation to petitions. These new duties are contained in the Local Democracy Act 2009 and set minimum standards for councils in relation to handling petitions, including a requirement to have an e-petitions facility by December 2010.

The Petitions Scheme

- 3.4 Councils must now publish a petitions scheme, setting out the detail of how they handle both e-petitions and paper petitions and the scheme must be available on the Council's website. Statutory Guidance has been published - "Listening to communities: Statutory Guidance on the duty to respond to petitions" which includes a model petitions scheme.
- 3.5 The proposed Petitions Scheme for Brighton & Hove City Council is attached at Appendix One. The Scheme covers all of the detail required by the Act and goes further - taking the opportunity to enable maximum use of petitions by the public as a means of engaging with the Council. A full scheme is required. In addition it is proposed that we communicate key messages and a summary of the Scheme which will be easier to pick up and use. The proposed communications plan is set out under 'Next Steps' at paragraph 4.1 below.

The key features of the new Petitions Scheme are:-

Who can petition?

- 3.6 The Local Democracy Act requires that, as a minimum, anyone of any age who lives, works or studies in the authority's area can organise and/or sign a petition.
- 3.7 In Brighton & Hove it is proposed that the Council opens up the process further and allows a wider number of people to petition. Therefore the draft Petitions Scheme proposes that any person of any age who lives, works, studies or uses services in Brighton & Hove can petition the Council.
- 3.8 To be clear, this will also now include Members, who were previously not able to petition the Council on the basis that elected Members were able to engage directly in other ways.

E-Petitions

- 3.9 The Act requires authorities to provide a facility for people to submit petitions electronically. The Council is only required to respond to electronic petitions that are submitted using the Council's e-petition facility and that comply with the requirements of the Petitions Scheme.
- 3.10 The legal requirement to provide an e-petitions facility does not come into force until December 2010. However, as the Council has already been trialling the e-

petitions facility, it is proposed to bring e-petitions and paper petitions together in the Petitions Scheme and bring the whole Scheme into force immediately following Council in July.

Responding to Petitions

- 3.11 The Act allows flexibility for Councils to set a threshold for signatories that will receive a response. The proposed Scheme for Brighton & Hove does not include a threshold for signatories, meaning that any petition that complies with the guidelines set out in the Petitions Scheme will be acknowledged and will have the opportunity to be presented at a council meeting.
- 3.12 When considering a petition, the Act requires Councils to consider the following steps:
- Agreeing the action requested in the petition;
 - Referring the petition for consideration to a relevant decision-making meeting of the authority;
 - Holding an enquiry;
 - Holding a public meeting;
 - Commissioning research;
 - A written response to the petition organiser setting out the authority's views on the request in the petition;
 - Referring the petition to an overview and scrutiny committee

Exclusions

- 3.13 The Petitions Scheme applies to petitions which relate to a function of the Council or relate an improvement in the economic, social or environmental well-being of the Council's area.
- 3.14 Petitions which are considered by the Monitoring Officer to be vexatious, abusive or otherwise inappropriate will not be accepted. The Statutory Guidance gives specific guidance on determining whether a petition should be excluded. In any case where the petition does not follow the guidelines in the Petitions Scheme, the petition organiser will receive a letter explaining the issues.
- 3.15 Consideration of petitions may also be refused if the issue is the subject of legal proceedings; relates to individual members of the community or is an excluded matter. Excluded matters are defined as:-
- Any matter relating to a planning decision;
 - Any matter relating to a licensing decision;
 - Any other matter relating to an individual or entity where there is a statutory right of recourse or appeal.

Petitions debates

- 3.16 The Local Democracy Act requires that petitions which receive a significant level of support should be debated at a meeting of the Full Council. The debate would

result in a decision of the Full Council or a recommendation to Cabinet, whichever is appropriate depending on the issue.

- 3.17 Each local authority has the flexibility to set a threshold for the number of signatures required to trigger a Full Council debate, subject to a maximum threshold of 5% of the local population. In Brighton & Hove it is proposed that the threshold is set significantly lower at 1,250 signatories (approximately 0.5% of the population). The intention is to ensure that the threshold is achievable and that the power to trigger a Full Council debate is engaged. The Council can revise its thresholds at any time if either no debates or an unmanageable quantity are triggered. Any revision would require the approval of Full Council.

Petitions calling officers to account

- 3.18 The Council's Petition Scheme must also allow for petitions to trigger a senior member of staff to attend a meeting of the Council's Overview and Scrutiny Committee and answer questions about their work. Again, each council has the flexibility to set an appropriate threshold for the minimum number of signatures required to trigger this action.
- 3.19 The Petitions Scheme for Brighton & Hove is proposing a threshold of 750 signatories to trigger an officer being called to account. The requirement is for this type of petition to apply to senior officers responsible for delivering council functions. In Brighton & Hove the Petitions Scheme includes the Chief Executive and Directors for this purpose. Following the implementation of the Intelligent Commissioning structure, it is proposed that the relevant officers would be the Chief Executive, Strategic Directors, Lead Commissioners and Heads of Delivery, Support and Resource Units.

Petition reviews

- 3.20 An important new provision in the Petitions Scheme is the power to ask Overview and Scrutiny to review the Council's response if the petition organiser is not satisfied with it. If the Overview and Scrutiny Committee reviewing the matter is concerned about the adequacy of the response, it will have the power to carry out a full review or arrange for Full Council to do so. The Council will be required to inform the petition organiser of the outcome of the review and post the results on the council website.

4. Next Steps

- 4.1 Subject to the approval of the draft Petitions Scheme by Full Council, it is proposed that the new arrangements come into effect immediately. There will be a communications plan to ensure that there is awareness of the new Scheme in the City. This will include:
- Press releases;
 - City News
 - Information on the Council's website

- An accessible summary of the scheme and key messages produced for the website and other media;
- Communication using our Community Development links and forums including attendance at meetings and use of community newsletters;
- Ongoing promotion of the scheme at Get Involved events taking place in the City.

4.2 In order to assess the impact of the scheme and its success in increasing opportunities to engage with the Council, it is proposed that a review of the scheme is considered by Governance Committee in June 2011.

5. CONSULTATION

5.1 Consultation has taken place internally with Democratic Services, the Communications Team, the Head of Scrutiny and the Head of Equalities and Inclusion. A review of the operation of the scheme will be considered by Governance Committee in June 2011.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

5.1 The costs associated with managing petitions and e- petitions is currently covered within the democratic services budget. If there was a significant increase in petition activity following completion of the trial additional resources would need to be identified as part of the budget process.

Finance Officer consulted: Anne Silley Date: 28/06/10

Legal Implications:

5.2 As set out in the body of the report there is currently no legal requirement for the Council to provide an e-petitions facility. However, the provisions of the Local Democracy, Economic Development and Construction Act 2009 require this to be in place by December 2010. The provisions of the draft Petitions Scheme comply with the requirements of the Act.

Lawyer Consulted: Elizabeth Culbert Date: 25/05/10

Equalities Implications:

5.3 The proposals increase accessibility to Council decision makers and the communications plan will ensure that awareness of the scheme is specifically targeted at harder to reach groups.

Sustainability Implications:

5.4 The use of an on-line facility is likely to decrease the amount of paper petitions that are submitted.

Crime & Disorder Implications:

- 5.5 There are no Crime and Disorder implications arising from this report.

Risk and Opportunity Management Implications:

- 5.6 The risks involved are that the demand for e-petitions is so high that the Modern.Gov system is not able to cope with the volume or that the number becomes unmanageable for Council meetings. The scheme includes the option of receiving a response direct from the Director which may assist in managing high numbers of petitions. To date the volume has been manageable and this will be kept under review. The scheme can be reviewed at any time with the approval of Full Council.

Corporate / Citywide Implications:

- 5.7 The initiative supports the "Get Involved" programme which is seeking to promote the Council, local democracy and active citizenship.

SUPPORTING DOCUMENTATION

Appendices:

1. Draft Petitions Scheme for Brighton & Hove City Council
2. Extracts from Constitution with proposed amendments

Documents In Members Rooms

None

Background Documents

None