

## **Cheltenham Borough Council**

### **Council**

**13 May 2010**

### **Local Petitions Scheme**

### **Report of the Chief Executive**

#### **1. Executive Summary and recommendation**

##### **1.1 The issue**

**1.1.1** The Local Democracy, Economic Development and Construction Act 2009 imposes a new statutory duty on local authorities to respond to petitions and to establish, publicise and comply with a scheme for handling petitions (including electronically through websites). This new duty comes into force on 15 June 2010 (e-petition requirements will come into force on 15 December 2010). This report recommends a scheme which must be approved by Full Council and published on the Council's website.

##### **1.2 Council is therefore recommended to :**

**i) Approve the draft Petition Scheme at Appendix A to this report for implementation by 15 June 2010**

**ii) That the Council's Constitution be updated accordingly.**

##### **1.3 Summary of implications**

###### **1.3.1 Financial**

Dealing with petitions will be met from existing budgets so there are no financial implications arising from this report.

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###### **1.3.2 Legal**

The Council's statutory duty is outlined in the main body of the report.

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### 1.3.3 Other

The Administration of petitions will be managed by Democratic Services. Other officers will be involved in providing information and may have to appear before committees. It is not envisaged that there will be a significant number of petitions to deal with but the number will be monitored. This could require additional capacity from officers which it is not possible to quantify at present, however will need to be closely monitored following implementation.

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**Tel no: 01242 264186**

## 1.4 Implications on corporate and community plan priorities

1.4.1 This scheme forms part of engaging citizens in local democracy and is a statutory requirement.

## 1.5 Statement on Risk

1.5.1 The Council must comply with the requirements of the new legislation.

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## 2. Introduction

2.1.1 The Local Democracy, Economic Development and Construction Act 2009 imposes a new statutory duty on local authorities to respond to petitions and to establish, publicise and comply with a scheme for handling petitions (including electronically through websites). This new duty comes into force on 15 June 2010 with e-petition requirements coming into force on 15 December 2010.

## 3. Background

3.1 The 2009 Act requires the Council to establish a scheme for responding to the petitions it receives. Under the scheme anyone who lives, works or studies in the district can sign or organise a Petition and trigger a response from the Council. The possible steps which the Council may choose to take in response to a Petition must include one of the following :

- Take the action requested
- Consider the petition at a meeting of the authority
- Hold an inquiry
- Hold a public meeting
- Commission research

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- Prepare a written response setting out the Council's view on the issue
- Refer the petition to an overview and scrutiny committee

**3.2** The legislation requires the Council to set thresholds as to the number of signatures required to trigger a Council debate or require a senior officer to give evidence at a scrutiny committee. These thresholds can be reviewed after a period of activity and amended as necessary. The Model scheme for a District or Borough suggests a threshold of 1% of the local population to trigger a council debate and 0.5% signatures to trigger an officer's attendance. The legislation requires that the thresholds must not be set at more than 5% of the local population (112,021 is the current total population for the Borough), be achievable and expressed as a simple figure so that people know the number of signatures needed to trigger the statutory response.

**3.3** The recommended proposals are set out below:

- **Ordinary petition: propose 10 signatures as currently specified in the council's constitution**
- **Petition requiring Council debate: propose 750 signatures (0.67%)**
- **Petitions holding an officer to account: propose 750 signatures (0.67 %)**

We are proposing the same threshold for both petitions requiring a council debate and those holding an officer to account. This will simplify the petition scheme for members of the public and will cover the case where a petition may seek a combination of both options. This still remains within the legislative requirements.

**3.4** Where Petitions have more than the suggested 750 signatures this will trigger a Council debate. The Council will endeavour to consider the Petition at its next meeting where possible. The Petition organiser will be given up to five minutes to present the Petition at the meeting and the Petition will 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 requested, to take no action or to commission further investigation into the matter, for example by a relevant Committee. Where the issue is one on which the Cabinet are required to make the final decision, the Council will decide whether to make recommendations to inform that decision. The Petition organiser will receive written confirmation of this decision which also will be published on the Council's website.

**3.5** The Council also has to provide in its Petition Scheme that Petitions with at least a suggested 750 signatures will trigger a requirement that senior officers give evidence to a public Overview and Scrutiny Committee. This will normally be in public unless confidential information would be disclosed, in which case the meeting will take place in private.

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### **3.6 Application of a petition scheme**

The Petition Scheme will apply to any Petition made to the Council which :

- Asks for action to be taken or ceased
- Is signed by the requisite number
- Is not under another enactment
- If electronic, uses the Council's facility.

### **3.7 The subject matter of petitions**

A Petition must relate to a relevant matter i.e. a Council function or an improvement in the economic, social or environmental wellbeing of the district. The guidance encourages local authorities to work with partners if the subject is outside of our core functions eg health or community safety

The legislation makes it clear that planning and licensing decisions are to be excluded, as are matters where there is another appeal (e.g. Council Tax banding). However these matters will not be excluded if the Petition relates to a systematic failure in service provision.

In deciding whether to allow the Petition Scheme to be used, the Council can take into account data protection issues and such matters as equalities law, libel and whether the Petition is vexatious, abusive or inappropriate. If the Council refuses to allow the Petition facility to be used it must give reasons.

The statutory guidance says that in deciding whether a Petition is vexatious or abusive, Councils should base their decision on the same test that would be used for Freedom of Information (FOI) requests – namely “is the request likely to cause distress, disruption or irritation without any proper or justified cause?” The test must be applied to the topic and not the Petition organiser. The guidance also states that a Petition may be inappropriate where legal proceedings are possible or where the Petition relates to an individual member of the community.

In responding to a petition the council will also take into account the timeliness of the issue e.g whether it still remains relevant.

### **3.8 E-Petitions**

It will be a new statutory duty with effect from 15 December 2010 for the Council to provide an e-petition facility. The Council must create a facility for such e-petitions and incorporate it into its on-line information. This will be achieved by using the existing petitions facility on the ModernGov software which Democratic Services will be implementing shortly.

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### **3.9 Signatures**

A signature will count only if the name and address are given and if the Petition is electronic with such means of authentication as the Council requires. The model Scheme suggests that this might be name, postcode and individual email address.

### **3.10 Acknowledgements**

Petitions must be acknowledged within 10 working days with an indication of what the Council has done or intends to do in respect of it. Notification must be sent to the organiser and must be posted on the Council's website.

### **3.11 Review**

An organiser who is dissatisfied with the Council's response to a Petition has the right of review. They may request an Overview and Scrutiny Committee to review the adequacy of the steps taken and or proposed. If appropriate this will be a different overview and scrutiny committee to the one which originally reviewed the petition. The outcome of the review must be published on the Council's website.

If the Overview and Scrutiny Committee is of the view that the Council's response is inadequate, having regard to the possible responses and matters of proportionality, they may use their existing powers to conduct their own review of the issue under the Local Government Act 2000.

If the Overview and Scrutiny Committee is of the opinion that the Council has seriously neglected its responsibilities to listen to the local community in its response to the Petition, it may refer the matter to Full Council to review. The outcome of that review will be communicated to the Petition organiser and appear on the Council's website.

### **3.12 Calling officers to account**

A Petition may be submitted requiring an officer to be called to give account. The Council has to set a separate threshold for such a Petition. The grounds in the Petition must relate to the officer's duties and not be personal.

Officers who can be called into account in this way are those set out in the Scheme and include the Head of Paid Service, the statutory Finance and Monitoring Officers, the Strategic Directors and the Assistant Directors.

If such a Petition is received, the Scheme must provide for:-

- Attendance by the officer at an Overview and Scrutiny Committee to answer questions and

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- The petitioner to receive any report/recommendations made by the Overview and Scrutiny Committee.

The Overview and Scrutiny Committee may call another officer if they think it more appropriate but the statutory guidance states that this ought not to be at more junior levels and any alternative officer should be drawn from the list of those who could be called in any event to give account before Overview and Scrutiny.

The Overview and Scrutiny Committee meeting will be in public and the organiser of the Petition will be invited unless confidential information would be revealed. Notification of the meeting and any report or recommendations arising from it are to be communicated to the organiser and placed on the Council's website.

### **3.13 The model scheme**

The Department for Communities and Local Government has issued a Model Scheme. The Scheme has been adapted for the Borough, is set out at Annex A and is recommended for approval.

## **4. Implementation**

### **4.1 Implementation of the Scheme**

- Democratic Services would manage the process, keep records and update the web site as appropriate
- Acknowledgement of the petition to be sent by Democratic Services within 10 working days
- Democratic Services liaise with relevant Assistant Director to ascertain the most appropriate way of dealing with the petition
- The Assistant Director/Service Manager would investigate and prepare a report for consideration by appropriate meeting, liaising with appropriate Cabinet Members, scrutiny members, partners and other officers as appropriate
- Democratic Services to respond to the petition organiser to advise what steps the Council proposes to take and complete the process

## **5. Consultation**

This report was sent to the following for comment : Cabinet Member Corporate Services, the Leader, chairs of Overview and Scrutiny, the Senior Leadership team and officers from Finance, Legal and Human Resources.

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### **Appendices**

A. Draft Petition Scheme for Cheltenham Borough Council

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<b>Background Papers</b>	Department of Communities and Local Government Statutory Guidance on the Duty to Respond to Petitions published March 2010
<b>Contact Officer</b>	Rosalind Reeves, 01242 774937, <a href="mailto:rosalind.reeves@cheltenham.gov.uk">rosalind.reeves@cheltenham.gov.uk</a>
<b>Accountability</b>	Cabinet Member Corporate Services
<b>Scrutiny Function</b>	All

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## Draft Petition Scheme for Cheltenham Borough Council

### Petitions

The council welcomes petitions and recognises 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.

Paper petitions can be sent to :

Democratic Services, Cheltenham Borough Council, Municipal Offices, Promenade, Cheltenham, GL50 6SA

Or be created, signed and submitted online to [democratic.services@cheltenham.gov.uk](mailto:democratic.services@cheltenham.gov.uk).

Any petitions can be presented to a meeting of the Council or Cabinet. Council meetings take place 8 times per year and Cabinet meets monthly. Dates and times can be found at [www.cheltenham.gov.uk](http://www.cheltenham.gov.uk). If you would like to present your petition to the Cabinet or Council, or would like your councillor or someone else to present it on your behalf, please contact Democratic Services on 01242 774937 at least **3** working days before the meeting and they will talk you through the process.

If your petition has received **750** signatures or more it will also be scheduled for a council debate which will take place at a Full Council meeting and if this is the case we will let you know whether this will happen at the same meeting or a later meeting of the Council.

### What are the 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, address and signature of any person supporting the petition



Anyone who lives, works or studies in the district, including under 18's, can sign or organise a Petition and trigger a response. 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 the 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 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.

## 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 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 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. Further information on all these procedures and how you can express your views is available at [www.cheltenham.gov.uk](http://www.cheltenham.gov.uk)

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 acknowledgment of the petition. In responding to a petition the council will also take into account the timeliness of the issue e.g whether it still remains relevant.

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). When you sign an e-petition you can elect to receive this information by email. We will not send you anything which is not relevant to the e-petition you have signed, unless you choose to receive other emails from us at [democratic.services@cheltenham.gov.uk](mailto:democratic.services@cheltenham.gov.uk).

## 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 one of the council's scrutiny and review committees
- calling a referendum
- writing to the petition organiser setting out our views about the request in the petition

\*Overview and Scrutiny committees are committees of councillors who are responsible for scrutinising the work of the council – in other words, Overview and Scrutiny committees have the power to hold the council's decision makers to account.

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 table below gives some examples.

<b>Petition subject</b>	<b>Appropriate steps</b>
Alcohol related crime and disorder	<p>If your petition is about crime or disorder linked to alcohol consumption, the council may among other measures, consider the case for placing restrictions on public drinking in the area by establishing a designated public place order or, as a last resort, imposing an alcohol disorder zone. When an alcohol disorder zone is established the licensed premises in the area where alcohol related trouble is being caused are required to contribute to the costs of extra policing in that area. The council's response to your petition will set out the steps we intend to take and the reasons for taking this approach</p>
Anti-social behaviour (ASB)	<p>As the elected representatives of your local area and authority, the council plays a significant role to play in tackling anti-social behaviour. The council, in conjunction with our partners in the local crime and disorder partnership have set out minimum service standards for responding to issues of anti-social behaviour, you can find more details about these standards at <a href="http://www.cheltenham.gov.uk">www.cheltenham.gov.uk</a>.</p> <p>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 a licensing authority. For example, we may work with the neighbourhood policing team in the affected area to identify what action might be taken including what role CCTV might play, 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 crime and disorder reduction partnership and Gloucestershire County Council Community Safety Scrutiny Committee to the issues highlighted in the petition.</p>
Under-performing health services	<p>We may work with local health partners to consider the matter raised in the petition including, where appropriate, exploring what role the 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 independently supported – their role to find about what people want in terms of local health services, monitor those services and to use their powers to hold</p>

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	them to account). The health overview and scrutiny committee 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.
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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. You can find more information on the services for which the council is responsible at [www.cheltenham.gov.uk](http://www.cheltenham.gov.uk).

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.

## Full Council debates

If a petition contains more than **750** signatures it will be debated 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. 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 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 committee. Where the issue is one on which the council executive are required to make the final decision, the council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

## Officer's 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 a least **750** signatures, the relevant senior officer will give evidence at one of the public meetings of the council's overview and scrutiny committees. A list of the senior staff that can be contacted is available from

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Democratic Services ([democratic.services@cheltenham.gov.uk](mailto:democratic.services@cheltenham.gov.uk)). You should be aware that one of the overview and scrutiny committees may decide that it would be more appropriate for another officer to give evidence instead of any officer to give evidence instead of any officer named in the petition- for instance if the named officer has changed jobs. The committee may also decide to call the relevant councillor to attend the meeting. Committee members will ask the questions at this meeting, but you will be able to suggest questions to the chair of the committee by contacting [democratic.services@cheltenham.gov.uk](mailto:democratic.services@cheltenham.gov.uk) up to **5** working days before the meeting.

## E-petitions

The council is implementing a new committee management system, ModernGov. This software will enable us to allow e-petitions to be created and submitted through our website. The legal requirement to provide this facility is 15 December 2010 and the scheme will be updated as necessary once this facility is made available.

### 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 one of the council's overview and scrutiny committees 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.

The committee 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 committee 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 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.

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