

COUNCIL AGM – 10th May 2010
Petitions Scheme**Agenda Item 8****Portfolio Area:** Customers and Communication
Report Presented by: Cllr Mrs Beavis, Cabinet Member

- Background Papers:**
- [The Local Democracy, Economic Development and Construction Act 2009](#)
 - [Listening to communities: Statutory guidance on the duty to respond to petitions](#)
 - [Government response to the consultation on draft statutory guidance on the duty to respond to petitions](#)

Corporate Implications: Please refer to table at end of report**Options:** Set out in Paragraph 8 of the Report**Risks:** If the Petitions Scheme is not adopted and introduced with effect from 15 June we will be in breach of our statutory duty under The Local Democracy, Economic Development and Construction Act 2009.**Executive Summary**

The purpose of this report is to ensure that the Council's governance arrangements comply with The Local Democracy, Economic Development and Construction Act 2009 (hereafter referred to as 'the 2009 Act') which sets out the new legal requirement for every principal local authority to introduce a Petitions Scheme. This duty will be introduced with effect from 15 June 2010 and the e-petitions element of the duty will come into force on the 15 December 2010. [The Local Democracy, Economic Development and Construction Act 2009 \(Commencement No. 3\) Order 2010](#)

The proposed scheme will replace the current Petitions Procedure Rules if approved by Council. It must be published on our website.

The main statutory requirements are as follows –

- Anyone who lives, works or studies in the local authority area, including under 18's can sign or organise a petition and trigger a response.
- Councils must provide a facility for making electronic petitions (15 December).
- Petitions must be acknowledged within a time period specified by the council.
- Among the many possible steps a council can take in relation to a petition, the following steps must be included in the options listed in the scheme:

- taking the action requested in the petition
 - considering the petition at a 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
- Petitions with a significant level of support trigger a debate of the full council. Councils will determine this threshold locally but it must be no higher than 5 per cent of the local population (7105).
 - Petitions with a requisite level of support, set by the council, trigger a senior officer to give evidence at an overview and scrutiny committee and answer questions about their work – the petition cannot relate to their personal circumstances or character. The 2009 Act provides that the Chief Executive and Chief Officers must be open to “petitions to hold officers to account”, but that each authority may extend this list of “relevant officers” to include heads of service.
 - Petition organisers can prompt a review of the council's response if the response is felt to be inadequate.

Petitions under other enactments should be dealt with according to the procedures set out in those enactments. Planning and licensing applications are to be excluded, as are matters where there is another appeal process.

The council can delegate to an appropriate officer the power to reject petitions which he/she considers to be vexatious, abusive or otherwise inappropriate. Councils must acknowledge these excluded petitions still, explaining why they will not be taking action.

Once published we must comply with the petition scheme but can revise it at any time by taking the steps set out in Section 11 of the 2009 Act.

The Local Government Reform Sub-Group has discussed the contents of the scheme and agreed to the implementation of the attached scheme, subject to a review of its operation and effectiveness in 12 months time.

Decision

1. To approve the Petitions Scheme as set out in the Appendix, as follows

1. To agree the threshold for signatures at:-
 - “Ordinary” petitions – 20 signatures
 - Petitions requiring debate – 1000 signatures
 - Petitions to hold council employees to account – 500 signatures
2. To agree that petitions should only be considered from people who live, work or study in the Braintree District
3. To agree that signatures are only taken account of if the person provides a valid address where they live, work or study within the Braintree District
4. To delegate to the Monitoring Officer the authority to reject petitions which they consider to be vexatious, abusive or otherwise inappropriate.

5. To agree that the Chief Executive, Corporate Directors and the Assistant Chief Executive could be called to give evidence for petitions holding senior officers to account
2. To authorise the Monitoring Officer to make any consequential amendments to the Constitution following the approval of this Scheme.

Corporate Implications	
Financial:	Under the new burdens principles, central Government will meet the costs of the new burdens associated with the petitions duty. The costs arise from increased work for council officers, time at council meetings and overview and scrutiny committees, and set up costs for e-petitions. Local authorities will each receive a grant for 2010/11. It is expected that funding for future years will be incorporated into the revenue support grant.
Legal:	As set out in the report
Equalities & Diversity:	Any issues are addressed within the report
Customer Impact:	The decision is intended to promote public confidence in local democracy
Environment & Climate Change:	Not Applicable
Consultation/Community Engagement:	The statutory provisions being consulted upon are aimed at increasing involvement of all sectors of the community in local authority decision-making.
Key Decision:	No
Public/Private Report:	Public
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In Detail

1 **Background**

The Local Democracy Economic Development and Construction Act 2009 (hereafter referred to as 'the 2009 Act') was given Royal Assent in November 2009. Part 1 Chapter 2 of that Act deals with local authority petitions. It imposes a new statutory duty on local authorities to have a scheme for handling petitions which must be approved by Full Council and published on the Council's website.

The Government consulted on the implementation of these provisions between 2 December 2009 and 24 February 2010 and the statutory guidance to support the petitions duty, including a model petitions scheme, was published on the 30 March along with the making of The Local Democracy, Economic Development and Construction Act 2009 (Commencement No. 3) Order 2010 and The Local Authorities (Petitions) (England) Order 2010.

The core elements of the petitions duty will come into force on 15 June 2010 with the e-petitions requirements coming into force on 15 December 2010.

Once published we must comply with the petition scheme but can revise it at any time by taking the steps set out in Section 11 of the 2009 Act.

2 **The Petition Scheme**

Anyone who lives, works or studies in the local authority area, including under 18's can sign or organise a petition and trigger a response. The 2009 Act requires that the petition scheme define three categories of petition, and set a minimum number of signatures for each type of petition. For "ordinary" petitions, the authority is given wide flexibility to set the threshold number of signatures as high or low as it wishes, and to determine how such petitions will be dealt with.

Responding to petitions

The scheme must specify the time period in which petitions must be acknowledged, how the authority will acknowledge receipt of petitions, and advise the petition organiser how the petition will be dealt with.

Verification of signatures

Authorities must take account of the signatures of people who provide valid addresses where they live, work or study within the local authority area but they may also decide to take account of signatures of people who do not supply such information.

Relevant matters

To come within the scheme, the petition must relate to the responsibilities of the authority.

Exclusions

The authority can delegate to an appropriate officer the power to reject petitions which he/she considers to be vexatious, abusive or otherwise inappropriate. The Council 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". Inappropriate matters may include those which are part of ongoing legal proceedings, targeting individual members of the community or put immediately before elections or referendums.

Petitions under other enactments, such as petitions under the Local government Act 2000 asking for a referendum on whether an area should have an elected mayor, should be dealt with according to the procedures set out in those enactments unless it does not meet the requirements of that enactment.

Planning and licensing matters 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.

Councils must acknowledge these excluded petitions still, explaining why they will not be taking action.

Appropriate steps

The local authority's response should be proportionate to the seriousness of the issue and the level of support contained in the petition. The actions referred to above in the Executive Summary should not be regarded as the only options and any course of

action open to the council that is specific to the subject of the petition should be explored.

E-petitions

A facility for making electronic petitions must be provided by the authority (15 December)

3 Petition debates

Petitions with a significant level of support trigger a debate of the **full council**. Councils will determine this threshold locally but it must be no higher than 5 per cent of the local population. The debate may be added to the agenda of a normal meeting of the full council.

The petition organiser should be informed in writing about when the debate will be held - with sufficient notice to enable their attendance and then what decision has been made. These notifications should be published on the authority's website. Petitioners should be offered the option of presenting their petition at the beginning of the debate.

The debate should conclude with a decision which can either be to take action the petition requests, not to take action as put forward in the debate, to commission further investigation into the matter, for example by the relevant committee, or to make recommendations to the Cabinet where necessary.

4 Giving evidence

Petitions with a requisite level of support, set by the authority according to local circumstances, trigger a senior officer to give evidence at an overview and scrutiny committee and answer questions about their work – it cannot relate to their personal circumstances or character.

The 2009 Act provides that the Chief Executive and Chief Officers must be open to “petitions to hold officers to account”, but that each authority may extend this list of “relevant officers” to include heads of service. The final decision on which officer can best address the concerns raised in the petition and should be called to attend rests with the overview and scrutiny committee – they may also consider it appropriate to call the relevant elected member with responsibility for the service area in question in addition.

The petition organiser should be informed in writing about when the meeting will be held - with sufficient notice to enable their attendance. This notification should be published on the authority's website.

After the meeting the committee must make a report or recommendations and send it to the authority and the petition organiser.

5 Petition reviews

Petition organisers can prompt a review of the authority's response if the response is felt to be inadequate. The overview and scrutiny committee will decide whether the steps taken by the authority in response to the petition were adequate. An adequate response is likely to be proportionate to the issue set out in the petition and the level of support the petition has received.

Scrutiny has no power to take an operative decision. It can make a recommendation to Council, a Committee, the Cabinet or an individual Cabinet Member (as appropriate) or if it is very concerned can arrange for full council to carry out the review function but it

cannot over-ride the original decision. The council must inform the petition organiser of the results of the review as well as being published on the website.

6 **Thresholds for minimum number of signatures**

a) Ordinary Petitions

A low threshold is suggested as probably many of these will be about local issues.

Proposed threshold – 20 signatures.

b) Petitions requiring debate at Council

The threshold could be as high as 5% of the district's population (7,105). This seems too high but if it is set too low there may be too many petitions requiring debate at Council.

Proposed threshold – 1000 signatures

c) Petitions holding officers to account

The consultation paper says that local authorities should consider “a suitable threshold according to local circumstances”. They recommend that a low threshold is set.

Proposed threshold – 500 signatures

7 **Processing Petitions**

All petitions received by the Council will be logged with Member Services and they will take responsibility for acknowledging receipt, co-ordinating a response, publishing details on the website and monitoring its progress through to its conclusion. The petition once acknowledged, will then be assigned to the relevant portfolio holder, who will with the support of officers and in accordance with this scheme, respond to the petition in the most appropriate way.

8 **Options**

It is a legal requirement to implement a petitions scheme. Council may wish to amend the recommendations relating to the thresholds for signatures, qualification of petitioners, verification of signatures, officers who may be called to account and the delegation to the Monitoring Officer.

9 **Local Government Reform Sub- Group – 26th April 2010**

The Sub-Group debated the threshold figures and in particular the figure for ordinary petitions. It was considered by some Members that this figure was too low in comparison to the thresholds for triggering a Council debate or calling officers to account. In response to this, Members were advised that the threshold for petitions is currently 20 and that there have been no difficulties in dealing with these. After some discussion it was agreed that this figure should remain for now with a review of the scheme in 12 months time.

Petition Scheme

The petitions process allows members of the public to have direct influence on the political process and to raise concerns that are important to them.

A petition is defined as a communication in writing or using an electronic facility which is signed by the appropriate number of qualifying persons.

Members of the public can submit petitions on the following.

- Issues relating to the District Council's responsibilities.
- Issues which affect the Braintree District or communities within the district, as long as the Council is in a position to exercise some degree of influence.

The Council will respond to all the petitions it receives providing the petition follows the guidelines set out in this scheme. We will be as flexible as we can when handling your petition so that it is considered quickly and in the most appropriate way.

Essentially there are three types of petitions:

- **“Ordinary” petitions**

These must be signed by at least 20 people

- **Petitions requiring debate**

Petitions which contain 1000 signatures or more will be debated by the full council

- **Petitions to hold council employees to account**

Petitions which call for evidence from a senior council employee and have at least 500 signatures will trigger that response.

How do I Submit a Petition?

Paper petitions can be sent to:

Assistant Chief Executive
People & Democracy
Braintree District Council
Causeway House
Braintree
Essex
CM7 9HB

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 (the address can be an address where a signatory lives, works or studies)

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.

Paper petitions must include a signature and the signatory's name and address. This can be an address where the signatory lives, works or studies.

Before submitting a petition you should first check with your local councillor or with the Council so see if the Council is already acting on your concerns and that the District Council is the most appropriate body to receive your petition as sometimes your petition may be more appropriate for another public body such as Essex County Council.

By the end of the year you will be able to submit petitions online using our new e-petitions facility.

Who can submit a petition?

Anyone who lives, works or studies in the Braintree District, including under 18s, can sign or organise a petition.

What will the council do when it receives my petition?

All petitions sent or presented to the council will receive an acknowledgement from the council within 7 working days of receipt. This acknowledgement will set out what we plan to do with the petition. It will also be published on our website.

If the petition needs more investigation, we will tell you the steps we plan to take.

In the vast majority of cases your petition will be submitted to one of the Council's formal member meetings where elected councillors will decide how to respond to the petition. These meetings will be held in public and petitioners are welcome to attend the meeting to observe the proceedings. The petition organiser will be entitled to briefly address the meeting.

Depending on the subject matter your petition will be submitted to either the Council, the Cabinet or one of the three Local Committees. There are two exceptions to this:

- If your petition contains more than 1000 signatures then it must be debated by the Council.
- If your petition is asking for a senior council employee to give evidence at a public meeting then it will be considered by the Council's Overview and Scrutiny Committee provided it contains at least 500 signatures.

Every effort will be taken to consider your petition at the next available meeting of the relevant committee but there may be occasions where this is not possible. In these circumstances, consideration will take place at the following meeting. For petitions triggering a debate at Council, the petition will be included on the next agenda to be published.

Full Council debates

If a petition contains more than 1000 signatures it will be debated by the full council unless it is a petition asking for a senior council employee 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 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 30 minutes. Councillors may wish to put questions to the petitioner.

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, refer the issue to the Cabinet or to commission further investigation into the matter, for example by a relevant committee. The petition organiser will receive written confirmation of this decision which will also be published on our website

Evidence from senior council employees

Your petition may ask for a senior council employee to give evidence at a public meeting about something for which they are responsible as part of their job. For example, your petition may ask a senior council employee to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision. The petition must relate to the employee's job, it cannot relate to their personal circumstances or character.

If your petition contains at least 500 signatures, the relevant employee will give evidence at a public meeting of the council's overview and scrutiny committee.

Only the following senior employees of the Council can be called to give evidence:

- Chief Executive
- Corporate Directors
- Assistant Chief Executive and Monitoring Officer

The Overview and Scrutiny Committee may decide that it would be more appropriate for another member of staff to give evidence instead of any person named in the petition. 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 the Council's Scrutiny Manager up to three working days before the meeting.

After the meeting the Committee will submit a report to Cabinet. This report will be considered at the next meeting of the Cabinet. The petition organiser will receive a copy of this report.

Are there any petitions which the Council cannot accept?

We believe that the vast majority of petitions we receive will be accepted but in certain circumstances petitions may not be accepted, including:-

- 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 or a separate complaints process
- Any petition which we consider to be vexatious, abusive or otherwise inappropriate.

Please note that it may be inappropriate for us to deal with certain petitions during periods when we are subject to restrictions immediately before elections or referendums. In these circumstances we will inform you of the date when the petition can be published on our website and will be considered.

- Where a person or organisation (or someone on their behalf) has submitted a petition which is the same or substantially the same as one submitted within the previous 12 months

If we decide that a petition is not acceptable then we will let the petition organiser know our reasons.

If a petition relates to the responsibilities of one of our partners then the petition will be forwarded to that authority within 7 working days of receipt for them to deal with.

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
- carrying out consultation
- holding a meeting with the petitioners
- referring the petition for consideration by the council's overview and scrutiny committee*
- 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, the overview and scrutiny committee has the power to hold the council's decision makers to account.*

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. Whenever possible we will also publish all correspondence relating to the petition (all personal details will be removed).

In addition to these steps, the council will consider all the specific actions it can potentially take on the issues highlighted in a petition. For example if your petition related to crime and disorder linked to alcohol consumption, the case for a designated public place order could be considered. The Council may also decide to consult local partners to consider a wider range of powers to tackle the issues raised in your petition.

If your petition is about something over which the council has no direct control (for example the local railway or hospital) we will aim to make representations on behalf of the community to the relevant body. The council works with a large number of local partners and where possible we 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.braintree.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. It 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.

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 the Overview and Scrutiny Committee review the steps that the council has taken in response to your petition.

The Overview and Scrutiny Committee will consider your request within 30 days of receiving it. Should members feel the Council has 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 executive or 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 seven working days. The results of the review will also be published on our website.

Is there anything else I can do to have my say?

As a Council we try to identify and solve problems at an early stage. We are committed to receiving feedback as this helps us to develop and review services. We recognise that petitions are just one way in which people can let us know about their concerns. There are a number of other ways in which you can have your say including:

- contacting your local district councillor [*link to cllr details page*]
- participating in Question Time at Committee meetings
- making a complaint through the Council's complaints system
- joining and commenting on our Facebook and Twitter pages
- joining our People's Panel