

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Cabinet
Date:	28 June 2010
Title:	Duty to respond to petitions
Reference:	1571
Report From:	Chief Executive

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Petitions to Local Authorities

1. Executive Summary

- 1.1 The Local Democracy, Economic Development and Construction Act places a duty on Local Authorities for responding to petitions, including an e-petition facility. The previous Secretary of State issued statutory guidance on what a petition scheme should contain prior to the general election. This included a model scheme which authorities can adopt with or without modification. It is not anticipated that this requirement will change post general election.
- 1.2 The duty to respond to petitions will be brought into force on 15 June 2010 and the e-petitions scheme will come into force on 15 December 2010. Due to the short timescales, it is recommended that arrangements are introduced to enable Hampshire County Council to respond to petitions with a review in December 2010 to ensure the scheme is both practical and accessible. The first formal opportunity to ratify a scheme will be the full County Council meeting on 15 July 2010; it is therefore proposed that the draft arrangements outlined in this paper be applied to any petition received between the 15 June 2010 and formal ratification.
- 1.3 The provisions introduced through the legislation require Local Authorities, via full Council, to make, publicise and comply with a scheme for handling both paper and electronic petitions. There are minimum requirements placed on the County Council but scope for the exercise of some local discretion in relation to thresholds, timescales and the officers who can be called to account by a petition. There is also local flexibility in relation to the

management of petitions and the approach to be taken with partner organisations.

2. Key Considerations:

- 2.1 Cabinet are asked to consider the duties being placed on the authority and reach a decision on the following areas to be recommended to the Council:
- thresholds for responding to petitions (see section 5),
 - officers eligible to be called to account (see section 6),
 - timescales (see section 7),
 - the arrangements for petition management (see section 8),
 - the approach for petitions relating to partner organisations (see section 9)
- 2.2 A flowchart outlining the key stages supporting this process is attached at Appendix 1 (a more detailed protocol to support the internal management of the scheme and information for local people will be drawn up based on the approach agreed).
- 2.3 Cabinet considers the proposal that in the period between the 15 June 2010 and 15 July 2010 the terms of the draft scheme will be applied to any petitions received.
- 2.4 The e-petitions element of the scheme will require approval via County Council prior to the 15 December deadline for implementation. Cabinet is asked to consider a recommendation that the scheme and associated reporting mechanisms are reviewed at this time. The review will be led by Business Advice and Member Support (BAMS) in conjunction with the Head of Governance and input from nominated departmental leads. This will ensure that the scheme is meeting the expectations of residents and proving to be practical and workable for Hampshire County Council. The resource implications of managing the scheme will be included in this work.

3. Statutory Duties on Principal Local Authorities:

- 3.1 Anyone who lives, works or studies in the local authority area, including under 18s, can sign or organise a petition and trigger a response from a Principal Authority. Hampshire County Council and the Hampshire District/Borough Councils are all Principal Authorities as defined in the Act.
- 3.2 The legislation requires that the petition scheme should apply to any petition that meets the following criteria for it to be classed as "active":
- it calls upon the authority to take action, or to cease to take action
 - it contains a pre-requisite minimum number of signatories (as specified by the Council),
 - it is not made under another enactment unless it fails to meet the requirements of that enactment
 - if made electronically it is made via the authority's e-petition facility and

- the lead petitioner supplies their full contact details and all signatories their name and address.
- 3.3 The statutory guidance instructs that authorities are expected to take into account local circumstances when agreeing arrangements for responding to petitions. In particular the triggers that initiate a response (including thresholds) need to be achievable. The Secretary of State reserves the right to direct an authority with a scheme deemed unachievable to amend its scheme.
- 3.4 Exclusions to this are set out as petitions deemed to be “vexatious, abusive or otherwise inappropriate” following (as a starting point) the same definition as currently applies to Freedom of Information Act requests. In particular petitions to call officers to account must relate to the role of the individual in delivering public services and not matters relating to an officer’s personality or private life. Furthermore, petitions relating to ongoing legal proceedings, which target individual members of a community or which are made correctly under other enactments are excluded from the petitions scheme, as are matters relating to an individual or an entity in respect of which they have a right of recourse to a review or right of appeal conferred by another enactment. In order to avoid duplication, the policy areas of planning and licensing are also excluded, save where there is an allegation that a function for which the authority is responsible has not been discharged at all, or that its discharge has failed, or is failing on a systematic basis. The proposed exclusion criteria are attached at Appendix 3.

4. **Responding to Petitions:**

- 4.1 An “active” petition on a “relevant matter” (as per paragraph 9.1) must be acknowledged in pre-determined timescale (as specified by the Council) and an “appropriate” and “proportionate” response taken via one or more of the following steps:

- giving effect to the request in the petition,
- considering the petition at a meeting of the authority,
- holding an inquiry or a public meeting,
- commissioning research,
- giving a written response explaining the council’s position on the issues raised, or
- referring to a scrutiny committee

This is not an exhaustive list and consideration needs to be given to other appropriate steps that the Council may wish to specify.

- 4.2 In addition to this, should a petition receive a pre-requisite number of signatories (as specified by the Council) there is an automatic requirement for the matter raised in an active petition to be debated in full council.

- 4.3 Senior officers can also be called to account before a public meeting of the relevant Select/Overview and Scrutiny Committee, if enough signatories (as specified by the Council) request this. The Council can decide which of its officers can be called to account but the scheme must as a minimum include the Chief Executive and all chief officers.
- 4.4 If a petitioner is not satisfied with the response of the Council, they can request that the matter be referred to the relevant Select/Overview and Scrutiny Committee to decide whether the steps taken by the authority in response to the petition were adequate.

Requirements to be Specified by the Council

5. Thresholds for responding to petitions:

- 5.1 A threshold for the number of signatories required to trigger the responses outlined in section 4 needs to be set for the following three criteria:
1. To classify a petition as “active” (as per paragraph 3.2):
 - There is an expectation in the guidance that this should be set at an achievable level, in order that a response can be triggered.
 - The expectation that the scheme is locally appropriate could be met by setting a low threshold, which would enable local level concerns to be raised and appropriate steps to be taken in response.
 - The suggested threshold for the Hampshire County Council scheme is 500 signatories.
 2. To prompt a debate in full council (as per paragraph 4.2):
 - This cannot be fixed at more than 5% of the population, which equates to circa 64,000 in the case of Hampshire.
 - It is proposed that the threshold is set at just under 3% i.e. 38,500 signatories of the population to trigger a debate at full Council.
 - Petitions that are considered by full Council should highlight matters that affect the whole County of Hampshire or one of its main services. However, the Statutory Guidance issued by Communities and Local Government in March 2010 also envisages a wider ambit and it makes the point that as community leaders and place shapers local authorities have a key interest in issues which, although wider than their functions, affect the local area.
 - More particularly Section 14 (2)(b)(ii) of the Local Democracy, Economic Development and Construction Act 2009 places a duty on the County Council to respond to petitions which relate to the economic, social or environmental well-being of its area. This means that the County Council has a wide duty to respond to petitions that relate to discreet areas of the County as well as the County as a whole and to all or part of the services it or other relevant authorities provide.

3. To call officers to account (as per paragraph 4.3):

- This also cannot be fixed at more than 5% of the population.
- For consistency, it is proposed that the threshold is also set at 38,500 signatories.
- “Active” petitions calling an officer to account that do not achieve 38,500 may be referred to a Select/Overview and Scrutiny Committee if that is deemed appropriate.

6. Officers who can be called to account

6.1 The Council is required to determine which officers are eligible to be called to account to a Select/Overview and Scrutiny Committee through a petition and their names and job titles must be available. This group will include the Chief Executive/Head of Paid Service, Chief Officers and other key officers.

6.2 Regardless of which officer a petition relates to, the relevant Select/Overview and Scrutiny Committee has the discretion to decide which officer to call to give evidence based on what it deems appropriate. The Select/Overview and Scrutiny Committee also has the discretion to call the relevant responsible Member to give evidence, should it choose to do so.

7. Timescales

7.1 The Council is required to set a timescale in which a petition is acknowledged. Acknowledgement may in itself be the appropriate response, for instance a letter explaining the Council’s position, or, it may explain the steps that will be taken in response.

7.2 It is proposed that a limit of 10 working days from the receipt of the petition for acknowledgment is set. Furthermore it is proposed that the acknowledgement specifies a 20 working day deadline from the acknowledgement date in which to either make the appropriate response or to inform the petitioner of the steps that will be taken and consequential timescales to do so.

8. Petition Management

8.1 It is not known how many petitions will meet the requirements (i.e. 38,500 signatures) necessary to trigger a debate at full council. If these criteria were reached then the steps required are reasonably clear in terms of consideration of the petition at a full Council meeting. It is likely that the majority of “active” petitions (i.e. those exceeding 500 signatures) will not achieve the 38,500 threshold for an automatic right of debate in full

Council. There are therefore two decisions that will need to be taken when a petition is received.

- Does it meet the criteria that define it as an 'active' petition, taking into account possible causes for exclusion?
- In instances where a petition does not achieve the automatic requirement to debate in full council, what steps (from those detailed in paragraph 4.1) will be taken to respond to the petition in a manner that is reasonable and proportionate?

8.2 It is proposed that petitions would be directed to the Chief Executive for action. The Leader and appropriate Executive Member will be apprised of any petitions received.

8.3 Clear reporting arrangements will be put in place to enable Members, officers and the public to view the petitions received, the number of signatories and a summary of the response of the County Council.

8.4 As the volume of petitions is at this stage an unknown, it is proposed that the efficiency and effectiveness of the system is reviewed after a specified period, in order to ensure that it is functioning correctly and efficiently and that any additional pressure on resources is identified and supported. It will be essential that all departments have in place clear arrangements for dealing with petitions. Analysis of the experience of other Local Authorities suggests Highways, Environment and Education are areas that could experience particular pressures.

9. Working with Partners

9.1 Local authorities are required to deal with petitions which relate to the functions of partner organisations as well as petitions which relate to their own functions, including petitions on matters which are sub-regional and cross authority. "Relevant matters" not relating to a function of the authority are defined as those relating to "an improvement in the economic, social or environmental well-being of the authority's area to which any of its partner authorities could contribute". Such petitions could include a request that the Council acts as an advocate for the petitioners in relation to a matter involving a partner and indeed other authorities could be petitioned to advocate a view to Hampshire County Council.

9.2 It is recommended that existing relationships with partner authorities and organisations are used to appropriately progress such petitions as and when they arise. Relevant partner authorities are listed in Appendix 2.

9.3 Although the nature of petitions is difficult to predict, there is a likelihood that petitions received by both Hampshire County Council and the Hampshire District Authorities will, in reality, relate to both tiers. It is recommended that officer connections with District Authorities are used to facilitate two-way dialogue and a coordinated approach as necessary.

10. E-Petitions

- 10.1 As per section 1, there is also a requirement to have an e-petitions system, which would allow members of the public to create and sign petitions for the Council online. This must be implemented by 15 December 2010 and investigations into available options are currently being undertaken. These include creating an in-house solution and buying an off the shelf system from a major supplier.
- 10.2 Cabinet will be updated with specific proposals for the e-petitions system in good time to meet the 15 December implementation deadline.

11. Recommendations

- 11.1 That it be recommended to Council that:
- a) approval be given to the petition protocol and management arrangements detailed within sections 5 to 9 of the report and summarised in the flowchart at Appendix 1.
 - b) the Scheme and associated reporting mechanisms be reviewed by the Chief Executive and Head of Governance prior to approval of the e-petitions element of the Scheme.
- 11.2 That, prior to approval by Council, the terms of the draft scheme be applied to any petition received between 15 June 2010 and 15 July 2010.

CORPORATE OR LEGAL INFORMATION:**Links to the Corporate Strategy**

Hampshire safer and more secure for all:	yes
Corporate Improvement plan link number (if appropriate):	
Maximising well-being:	yes
Corporate Improvement plan link number (if appropriate):	
Enhancing our quality of place:	yes
Corporate Improvement plan link number (if appropriate):	

Direct links to specific legislation or Government Directives

<u>Title</u>	<u>Date</u>
Local Government and Housing Act 1989 Local Democracy, Economic Development and Construction Act 2009 Listening to Communities: Statutory guidance on the duty to respond to petitions, March 2010	

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

<u>Document</u>	<u>Location</u>
None	

IMPACT ASSESSMENTS:

1. Equalities Impact Assessment:

N/A

2. Impact on Crime and Disorder:

N/A

3. Climate Change:

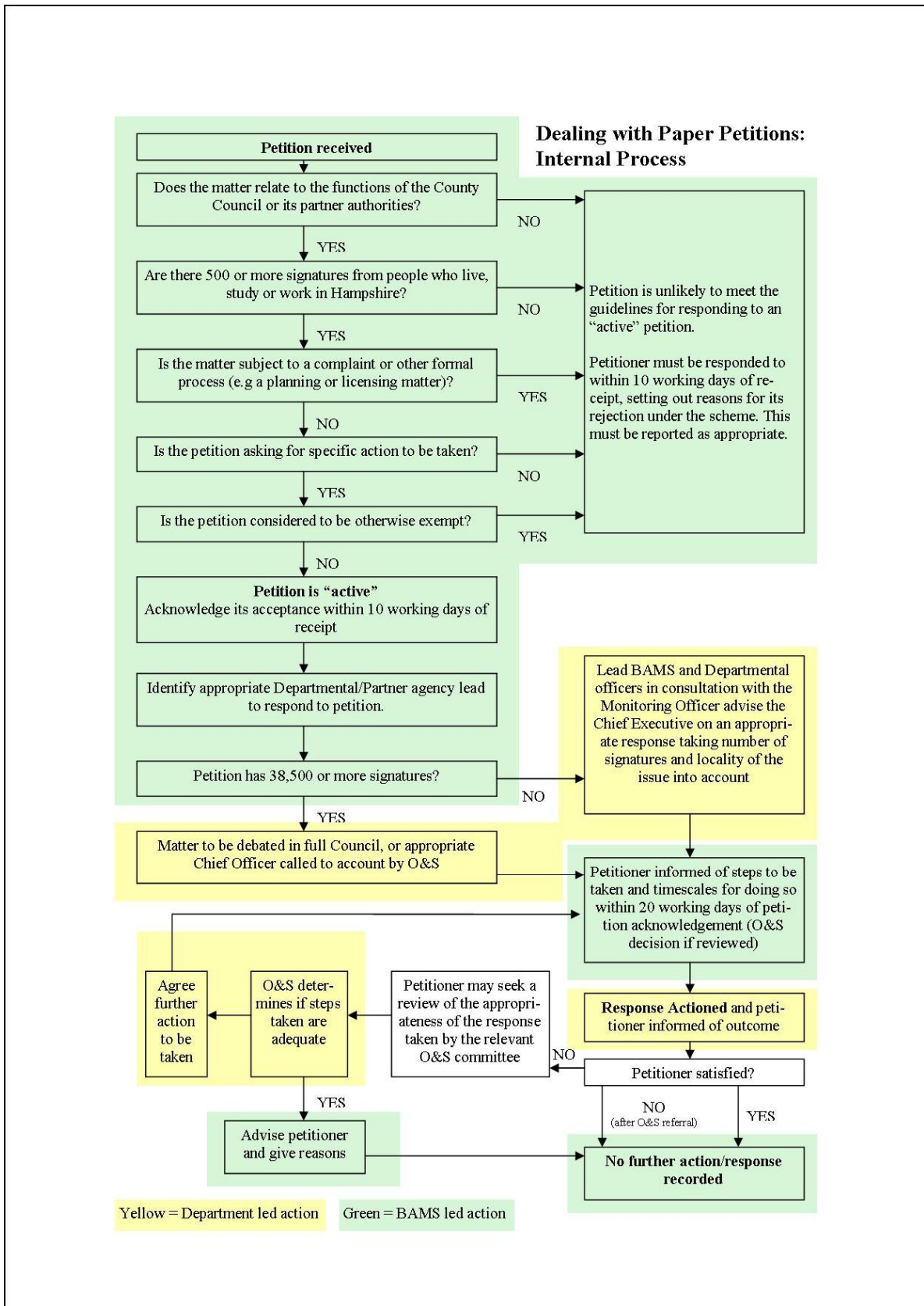
- a) How does what is being proposed impact on our carbon footprint / energy consumption?

N/A

- b) How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts?

N/A

Appendix 1



Appendix 2

Relevant Partner Authorities List

Local Government and Public Involvement in Health Act 2007 (Section 121 – Information from partner authorities)

Relevant partner authorities
(Part 5, Chapter 1, Section 104 contains specific definitions)

- any district Council;
- a fire and rescue authority;
- a National Park authority;
- the Broads Authority;
- a police authority;
- a chief officer of police;
- a joint waste authority established under section 207(1);
- a waste disposal authority;
- a metropolitan County passenger transport authority;
- Transport for London;
- a Primary Care Trust;
- a Regional Development Agency;
- a local probation board;
- a youth offending team;
- a National Health Service trust;
- an NHS foundation trust;
- the Arts Council of England;
- the English Sports Council;
- the Environment Agency;
- the Health and Safety Executive;
- the Historic Buildings and Monuments Commission;
- the Learning and Skills Council for England;
- the Museums, Libraries and Archives Council;
- Natural England;
- the Secretary of State, but only in relation to functions as a highways authority, traffic authority and with regard to employment and training (we assume that this means the Highways Agency and Jobcentre Plus)

Appendix 3:

Proposed wording of petition restriction criteria

Some issues will not be an appropriate channel for a petition. In order to avoid duplication, the policy areas of planning and licensing are excluded as are other matters where there is a statutory right to a review or appeal (except where there is an alleged failure of the County Council in respect of one of its functions).

Petitions initiated by Hampshire County Council employees where the subject matter relates directly to their employment or to their immediate area of responsibility are also excluded. This would cover matters where another right of recourse exists (e.g. the grievance procedure).

Petitions are not the right route for Freedom of Information requests; information about the FOI procedure can be found on the "[Freedom of Information](#)" web pages.

Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. Petitions cannot target individual members of a community or County Council officers for reasons that do not relate to their role at the Council.

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.

Formal restrictions on what can be accepted as a petition.

The information in a petition must be submitted in good faith. Petitions must comply with the law and we would normally reject petitions that contain:

- Party political material. Party political content cannot be published, under the normal rules governing the County Council.
- potentially libellous, false, or defamatory statements;
- information which may be protected by an injunction or court order (for example, the identities of children in custody disputes);
- the names of individuals, or information where they may be identified, in relation to criminal accusations;
- material which is potentially confidential, commercially sensitive, or which may cause loss or personal distress without justified cause;
- any commercial endorsement, promotion of any product, service or publication;
- the names of individual officials of public bodies, unless they are part of the senior management of those organisations. There is a complaints process available for disputes relating to the actions of individual officers and petitions regarding a County Council Officer must relate to their role in delivering public services and not their character, personality or private life.

- the names of family members of elected representatives or officials of public bodies;
- language which is offensive, intemperate, or inappropriately provocative. This not only includes obvious swear words and insults, but any language to which people reading it could reasonably take offence.
- petitions that are substantially the same as an existing petition or petitions that have been submitted in the past year.
- petitions which ask for things outside the remit or powers of Hampshire County Council to influence.
- statements that don't actually request any action;
- wording that is impossible to understand; or
- petitions which are intended to be solely humorous.