

STOCKTON-ON-TEES BOROUGH COUNCIL

CABINET RECOMMENDATIONS

PROFORMA

Cabinet Meeting8th July 2010

1. Title of Item/Report

Duty to Respond to Petitions-Local Democracy, Economic Development & Construction Act 2009

2. Record of the Decision

Consideration was given to proposed amendments to the Council's procedures for responding to petitions in the light of a new duty introduced to local authorities by the Local Democracy, Economic Development & Construction Act 2009.

The Act contained wide ranging provisions aimed at reinvigorating local democracy, including the Duty to Respond to Petitions. Statutory guidance in relation to this duty was issued by the previous Government on the 25th March 2010 and set out a requirement for local authorities to have adopted a petition scheme from the 15th June 2010; and to have implemented an electronic petition (E-Petition Scheme) by the 15th December 2010. The new duty therefore now made it a statutory requirement for local authorities to respond to petitions and to tell local people what action was going to be taken to address their concerns and sought to ensure that everyone, no matter where they live, would easily be able to find information about how to petition their local authority, and would know what to expect from their local authority in response.

The Act stipulated some minimum standards required of the petition scheme, such as:-

- i) 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;
- ii) a facility for making electronic petitions must be provided by the local authority (a requirement as from 15th December 2010);
- iii) petitions must be acknowledged within a time period specified by the local authority;
- iv) among the many possible steps that the principal local authority

may choose to take in response to a petition, the following steps must be included amongst the options listed in the scheme:-

- taking the action requested in the petition,
- considering the petition at a meeting of the authority,
- holding an inquiry,
- 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.

v) 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% of the local population.);

vi) petitions with a requisite level of support, set by the local authority, trigger a senior local government officer to give evidence at a meeting of the authority's overview and scrutiny committee(s);

vii) petition organisers can prompt a review of the local authority's response if the response is felt to be inadequate.

The Act also required top tier authorities to respond to petitions which relate 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. Therefore, these local authorities, including Stockton, must deal with petitions which relate to the functions of partner authorities as well as petitions which relate to their own functions; including petitions which are sub-regional and cross-authority.

The following matters were excluded from the scope of the petitions duty:-

-any matter relating to a planning decision, including about a development plan document or the community infrastructure levy;

-any matter relating to an alcohol, gambling or sex establishment licensing decision;

-any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment

-petitions calling for evidence from an officer are excluded from the requirement to hold a debate at full Council.

Whilst generally it was assumed that a Council would respond to every petition it received, the Department for Communities and Local Government (DCLG) advocated that a threshold of 50 signatures be set as the minimum amount required before the Council would regard the petition as falling within the parameters of the duty to respond.

Section 15 of the Act required that petitions which received a significant level of support should be debated at a meeting of the full Council. Principal local authorities were required to set out in their petition scheme the number of signatures needed to trigger a debate as part of the authority's response. Should the petition organizer be not satisfied with the way an authority has dealt with a petition, he/she may subsequently ask the authority's overview and scrutiny committee to review that authority's response. In Stockton's case, it was proposed that the overview and scrutiny committee would be the Executive Scrutiny Committee (ESC) unless Council, as part of its response to the petition, had already requested it to carry out a review of the matter, in which case the matter would be referred to an appropriate Select Committee. In considering an appropriate threshold for triggering a full Council debate, and following comparison with thresholds being set by other local authorities in the region, it was proposed that the threshold be set at 2000 signatures, approximately 1% of the population and in line with guidance set by the Department for Communities and Local Government (DCLG).

A further key provision of the legislation was the right for local people to petition for a senior member of Council staff to attend a public meeting of an overview and scrutiny committee and answer questions about their work. The Act therefore provided that local authorities must determine which of their officers are able to be called to account in this way and for such details to be included in their petition scheme. As a minimum requirement, schemes must provide that the head of paid service (the Chief Executive) and the most senior officers responsible for the delivery of services, be required to provide information on their activities at public meetings of the Executive Scrutiny Committee, and in Stockton's case it was proposed that officers of the Corporate Management Team (or nominated substitute) be deemed eligible to be required to give evidence and that the threshold for triggering such a requirement be set at 1,000 signatures (0.5% of the population), again in line with the recommended practice of the DCLG.

If a petition organiser is not satisfied with the way an authority has dealt with a petition, he/she may ask an overview and scrutiny committee to review that authority's response. It was proposed that in Stockton's case, the Executive Scrutiny Committee be delegated responsibility for carrying out such a review, provided that the matter had not already been considered by this Committee. In such cases it was proposed that the petition review be carried out by the most appropriate Select Committee to be determined by the Head of Democratic Services in consultation with the relevant Committee Chair and/or Vice Chair.

The DCLG had drafted a model scheme setting out how an authority may decide to implement the duty to respond to petitions and this model was considered appropriate upon which to base this authority's own scheme and details of this Council's proposed scheme, containing the threshold proposals, were submitted. To date, there had been little co-ordination of the authority's response to petitions received however, in order to ensure accountability for the authority's responsiveness to petitions received, it was proposed that the Head of Democratic Services be now designated as the Council's responsible officer for the receipt, recording and acknowledgement of petitions received and for ensuring that the authority's response to any petitions received was in accordance with its approved scheme with reasons given for any decisions/action taken, including any reasons for not accepting petitions, eg as a result of them being considered vexatious, abusive or otherwise. The proposed designation of the Head of Democratic Services Officer as the responsible officer for receiving, recording, acknowledging and rejecting any petitions received, would assist the Council to monitor the effectiveness of its petition scheme and its responsiveness to the new duty introduced; and it was therefore proposed that the Head of Democratic Services be also authorized to carry out such a review after 12 months operation and the findings be included in an annual report to be submitted to Cabinet/Council.

Given the need for the Council's petition scheme to include an e-petition facility, and the obvious links to both full Council and the Council's scrutiny committees already administered electronically via the Council's E-Genda system, the Head of Democratic Services had also, in consultation with the Council's Procurement and Performance Manager, made a delegated decision to procure the development of an appropriate E-Petition scheme for the authority with Associated Knowledge Systems (the providers of E-Genda). The costs of this development had been funded from existing budgets.

RECOMMENDED to Council that:-

1. The requirements of the statutory duty for responding to petitions introduced by the Local Democracy, Economic Development & Construction Act 2009 be noted.

2. That Council approves the proposed draft petition scheme attached at Appendix 2 to the report as this authority's preferred petition scheme required under the Act ; and confirms that:-

- In line with DCLG guidance, a threshold of 50 signatures be set as the minimum amount required before the Council will regard the petition as falling within the parameters of the duty to respond;

- In line with DCLG guidance, the threshold of petition signatures required for triggering a full Council debate be set at 2000 signatures;

- In line with DCLG guidance, the threshold of petition signatures required for senior members of staff being required to give evidence at a meeting of overview and scrutiny be set at 1,000 signatures;

- In respect of the senior members of staff required to give evidence under Section 16 of the Act, the Chief Executive, Corporate Directors and the Director of Law & Democracy and/or their nominees, be identified as the responsible officers for the purpose of this duty; and that this Council's Executive Scrutiny Committee be designated as the responsible overview and scrutiny committee of this Council for considering valid petitions requiring appropriate Council staff to give evidence;

- In instances where a petition organiser is not satisfied with the way this authority has dealt with a petition, and subsequently requests a review to be undertaken of the authority's response, the Executive Scrutiny Committee be authorized to carry out such a review provided that the matter has not already been considered by this Committee and in such cases, it is proposed that the petition review be carried out by the most appropriate Select Committee to be determined by the Head of Democratic Services in consultation with the relevant Committee Chair and/or Vice Chair;

- The Head of Democratic Services be designated as the Council's responsible officer for the receipt, recording and acknowledgement of petitions received and for ensuring that the authority's response to any petitions received is in accordance with its approved scheme with reasons given for any decisions/action taken including any reasons for not accepting petitions, eg as a result of them being considered vexatious, abusive or otherwise inappropriate; and that details of any

petitions received be referred for the attention of the relevant Cabinet Member(s), Chief Executive and (Corporate) Directors, as well as to the appropriate ward councillors and all Group Leaders, as well as being publicized on the Council's website.

- The use of delegated powers exercised by the Head of Democratic Services in procuring the development of an E-Petition scheme, be noted;

- Subject to Council's agreement to the new procedures proposed by the scheme for the handling of both paper and electronic petitions, the necessary changes be made to the Council's Constitution setting out how the Council will respond to any petitions received.

- The Head of Democratic Services be requested to carry out a review of the operation of the Council's petition scheme in twelve months time and the findings be included in an annual report to be submitted to Cabinet/Council.

3. Reasons for the Decision

The proposals contained within this report seek to ensure the authority's compliance with statutory guidance issued in respect of the duty to respond to petitions as contained within Chapter 2 of the Local Democracy, Economic Development & Construction Act 2009.

4. Alternative Options Considered and Rejected

As outlined in the report and decision

5. Declared (Cabinet Member) Conflicts of Interest

None

6. Details of any Dispensations

Not applicable

7. Date and Time by which Call In must be executed

Not applicable

Proper Officer
12 July 2010