

# Executive Summary and Recommendations

<b>Title of Report:</b>	<b>Proposals for a City of Westminster Petition Scheme</b>
<b>Date:</b>	<b>4 May 2010</b>

## Executive Summary

1. The Local Democracy, Economic Development and Construction Act 2009 aims to reinvigorate local democracy – putting local authorities at the forefront of the drive to reconnect people with public and political decision-making.
2. The petitions duty in the 2009 Act requires all principal authorities in England to establish a scheme for handling petitions made to the authority. This duty comes into force on 15 June 2010 and for e-petitions on 15 December 2009.
3. This report summarises the requirements of the 2009 Act and the statutory guidance, seeks approval of the proposed City of Westminster Petition Scheme, as attached at Appendix A, to commence on the 15 June 2010 and requests that the proposed Petition Scheme be recommended to Full Council on 19<sup>th</sup> May 2010.
4. The proposed scheme expands on the existing arrangements for presenting petitions at full Council meetings providing, in certain circumstances, the opportunity for a petitioner to present their petition to a Council meeting.

## Recommendations

That the Council, on 19 May 2010, be recommended:

1. to approve the proposed City of Westminster Petition Scheme (as attached at Appendix A to this report) to come into operation from 20 May 2010.
2. to approve the amended Standing Orders 3 and 8, as set out in paragraph 3.9 of the report.
3. to agree that the Petition Scheme be included in the City Council's Constitution.
4. to note that the e-petition element of the Council's petition scheme will be the subject of a further report.
5. that the Head of Legal Services be authorised to make any minor drafting amendments in order to clarify any aspect of the petition scheme in consultation with the Chairman of the General Purposes Committee.



City of Westminster

# Committee Report

Committee:

General Purposes Urgency Sub-Committee

Date:

April 2010

Classification:

General Release

Title of Report:

Proposals for a City of Westminster Petition Scheme

Report of:

Head of Legal Services

Wards involved:

All

Financial summary:

There are no financial implications arising from this report. Funding implications for introducing the e-petition element of the duty will be set out in a separate Report to be submitted in due course.

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## **1. Background**

- 1.1 Signing a petition is seen as one way for citizens to express their concerns and priorities to their local authority. The Government's Citizenship Survey April to December 2007 shows that petitions are the most popular and recognised form of civic action.
- 1.2 The City Council already has a well developed process for responding to petitions and approaches them as an opportunity to listen to the community and demonstrate strong local leadership. Under the Council's current process a petition may be presented by a member of the Council to a meeting of Full Council following which the petition is referred to the appropriate Chief Officer to prepare a report to the Cabinet or relevant Cabinet Member detailing the action taken in relation to the petition or seeking instructions as to the action to be taken. Following this a response is then given to the Member and the organiser of the Petition by the Officer. This approach, with minor changes, is included in the proposed scheme.
- 1.3 While other local authorities in England have similar provisions this is apparently not the case across the board. The petition provisions in the 2009 Act are a step by Government towards addressing this situation. The duty on all principal local authorities in England to establish a petition scheme comes into force on the 15 June 2010.
- 1.4 A further duty to introduce an e-petition facility comes into force later on the 15 December 2010 in recognition of the extra time that will be needed by local authorities to prepare for this. This will be the subject of a further report to be submitted later in the year.
- 1.5 The further report, referred to in 1.4 above, will also give an early opportunity to review the scheme which is the subject of this report.

## **2. Detail**

### **Summary of Requirements**

- 2.1 The 2009 Act requires petition schemes to meet some minimum standards in order to ensure minimum entitlements which all citizens can expect. Beyond this small number of requirements local authorities have a high level of flexibility about how they approach the duty leaving a lot of scope for local determination.
- 2.2 The requirements are:
  - 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
  - A facility for making electronic petitions is provided by the local authority (this requirement does not come into force until 15 December 2010).

- Petitions must be acknowledged within a time period specified by the local authority
- 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 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 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 a Policy and Scrutiny Committee
- Petitions with a significant level of support trigger a debate of the full council. Councils have the power to determine this threshold locally but it must be no higher than 5 percent of the local population
- Petitions with a requisite level of support, set by the local authority, trigger a requirement for a senior local government officer to give evidence at a meeting of the authority's Policy and Scrutiny Committee about their work.
- Petition organisers can prompt a review of the local authority's response by one of its Policy and Scrutiny Committees if the response is felt to be inadequate

2.3 The requirements listed above are the minimum set by the 2009 Act. Local authorities are encouraged to consider designing a scheme which is wider than these requirements, for example, responding to petitions from those who do not live, work or study in the local area or e-petitions which are not made through the authority's own e-petitions facility.

2.4 Section 18 of the 2009 Act clarifies that local authorities can include other information which they consider to be appropriate in their petition scheme. For example, details about how they handle petitions which do not qualify under the scheme. A proposal to cover this is reflected in the scheme.

## **Designing a Petition Scheme**

- 2.5 When designing its petition scheme the City Council is expected to take into account local circumstances to ensure that the scheme is locally appropriate, ensure that the scheme is accessible to all and that the process is easy for people to use. Officers consider that the proposed scheme, as attached at Appendix 1, meets these requirements, but it will however be kept under review.

### Setting of Thresholds

- 2.6 Statutory Guidance to support the duty advises that any thresholds which local authorities decide to set should be locally achievable. Where practical local authorities are encouraged to set low thresholds, such as those used in the model scheme which accompanies the Guidance. The model scheme takes the approach used by some local authorities (including the City Council) of not setting a threshold for triggering a response to a petition. This is consistent with the City Council's current approach and is therefore included in the scheme.
- 2.7 Local authorities have also been advised to consider whether variable thresholds would be appropriate to their local circumstances. At the moment this is not recommended but will be kept under review.
- 2.8 Thresholds can be reviewed after a period of activity and amended if necessary provided the process set out in paragraph 11 of the Statutory Guidance and Section 11 of the 2009 Act is followed. Should it become apparent that authorities are setting requirements which are unachievable, the Secretary of State has the power to direct them, to amend their petition schemes.

## **Responding to Petitions**

- 2.9 As a minimum, the City Council's petition scheme must apply if a petition meets all of the following criteria:
- It calls for the authority to take action
  - It is signed by the requisite number of people who live, work or study in the local area
  - It is made under another enactment but does not qualify under that enactment
  - If made electronically, it is made through the authority's e-petition facility. (This part does not come into force until 15 December 2010).
- 2.10 The legislation does not define what constitutes a petition. Authorities are expected to treat as petitions for the purposes of their scheme anything which

identifies itself as a petition, or which any reasonable person would regard as one.

### Relevant Matters

- 2.11 As community leaders, local authorities have a key interest in issues which, although wider than their function, affect the local area. In view of this, and their role in the local area agreement process (LAA) the 2009 Act requires top tier authorities (including the London Boroughs) 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. This means that the City Council must deal with petitions which relate to the functions of partner authorities as well as petitions which relate to our own functions, including petitions on matters which are sub-regional and cross-authority. This is reflected in the proposed scheme.
- 2.12 In practice, this may mean acting as an advocate for the local community, working with partners to resolve the issue, lobbying a partner organisation on behalf of the community or instigating a scrutiny review of the issue.

### Exclusions

- 2.13 Petitions which are in the City Council's opinion vexatious, abusive or otherwise inappropriate do not qualify under the 2009 Act to take steps in response to the petition. However, the City Council must still acknowledge these petitions and explain why no action will be taken. The power to make this decision on behalf of the Council is given to the Head of Legal Services.
- 2.14 The types of petitions which may be considered inappropriate include those relating to matters which are part of ongoing legal proceedings or those which target an individual member of a community. The decision as to what constitutes an inappropriate petition is for the City Council to decide when considering the circumstances of the individual case. In addition, it may be inappropriate to deal with certain petitions during periods when the City Council is subject to restrictions immediately before elections. The proposed scheme also delegates the exercise of this power to the Head of Legal Services.

### Matters excluded by order

- 2.15 In order not to duplicate procedures where established processes exist for communities to have their say the following matters have been excluded from the scope of the petitions duty (as all representations relating to individual planning and licensing applications - including petitions - are already taken into consideration before the decisions are taken) :
- 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 of appeal conferred by or under any enactment

2.16 However, failure to deliver services in these areas remain within the scope of the duty.

2.17 When in receipt of a petition on an excluded matter the City Council will acknowledge receipt of the petition and explain why the matter is not covered by the City Council's petition scheme. If the petition can be taken into account as part of existing procedures, a response will explain how this will happen. If the petition cannot be taken into account as part of these procedures the City Council will explain the existing arrangements for communities to have their say as part of the process in question.

### **3. The City of Westminster Petition Scheme**

3.1 The proposed City Council's Petition Scheme is set out at Appendix A to this report. It has been developed using the model scheme set out in the appendix to the Statutory Guidance and amended to take into account the City Council's existing procedures and practices and local circumstances. The key aspects of the Scheme are as follows:

#### Deadlines for responding to petitions

3.2 The City Council will acknowledge a petition submitted to it within 10 working days. This is in line with the Council's current deadlines for responding to correspondence. Also included is a timeframe in which petitions can expect to have a response of substance from the relevant Council Officers. This has been set at 3 months.

#### Presenting Petitions to the Council

3.3 (a) In accordance with existing practices the proposed scheme is designed so that petitioners are still able to have their petition presented to the Council by one of their ward councillors should they so wish and their councillor agrees. As presently it is proposed that Members will need to provide a copy of the petition to the Head of Legal Services 14 days prior to the Council meeting for inclusion on the agenda for that meeting or give notice of their intention to submit the petition in person and of its contents by no later than 5pm on the day before the Council meeting. As currently there shall be no discussion of such a petition at the meeting unless the petition receives the required level of support to trigger a council debate and complies with the requirements in paragraph 3.4 below. The proposed scheme includes provision that the relevant Chief Officer shall submit a report for consideration to the

relevant Cabinet Member within 3 months of the petition being presented.

- (b) Petitions can also be submitted in writing to the Council. The process for dealing with these is set out in the Scheme. The Head of Legal Services will acknowledge receipt of the petition and refer this to the relevant Chief Officer who shall respond. The scheme provides for the relevant Cabinet Members and Ward Members to be kept informed.

#### Petitions which trigger a Full Council Debate

- 3.4 It is proposed that any petition which triggers a full council debate will be placed on the agenda of the next available ordinary council meeting so long as the meeting is not due to fall in less than 14 days time. Following receipt of such a petition the Head of Legal Services shall prepare a report to full council setting out details of the petition and outlining the process to be followed. The relevant chief officer may also be asked to prepare a briefing on the subject of the petition which shall be circulated with the agenda of the council meeting together with a copy of the petition.

#### Thresholds

- 3.5 In accordance with its current practice the City Council will respond to all petitions it receives, providing that the petition follows the guidelines set out in its Scheme.
- 3.6 The number of signatories to a petition required to trigger a full Council debate has been set at 10,000 which equates to just over 4% of the City's current estimated population of 236,301 as published by the Office of National Statistics. It is considered that such a figure is locally achievable but also proportionate particularly as it is open to those who also work or study in the area. For the same reasons it is proposed that the threshold for triggering the attendance of a senior City Council Officer to give evidence at a Policy and Scrutiny Committee be set at 5,000 which equates to just under 2% of the City's current population.

#### Verification of Signatures

- 3.7 As a general rule it is not intended that signatures would as a matter of course be verified in the case of every petition. However the City Council's proposed scheme allows the Head of Legal Services the discretion to verify these should he consider it necessary for any reason. There is concern, however, that it will be very difficult to verify that people do indeed live, work or study within the City. Although, through the deployment of significant resources, it would be possible to check that petitioners are residents, it will not be possible to ensure that petitioners who claim to work or study there really do.

### Senior City Council Officers called to give evidence

- 3.8 Section 16 of the 2009 Act, requires that the Chief Executive and all statutory and non-statutory Chief Officers (as referred to in section 2 of the Local Government and Housing Act 1989) be regarded as “relevant officers” who can be called to account at a public meeting (ie a Policy and Scrutiny Committee). A list of these officers can be found at Appendix 1 of the scheme
- 3.9 The requirement for the Council to adopt a formal Petition Scheme leads to a need to revise Standing Orders, so that provision is reflected in the necessary Standing Orders of the Council, as shown in bold text, below:

### **Ordinary Meetings**

- (1) Ordinary meetings of the Council shall be held at the Council House, Marylebone Road, NW1 at 7pm in accordance with a programme of meetings approved by the City Council.
- (2) An Ordinary meeting will:
  - (a) Appoint a relief chairman to preside if the Lord Mayor is not present
  - (b) approve as a correct record the minutes of the last meeting of the Council for signature by the Chairman
  - (c) receive a report of the Chief Executive of any vacancies for and the results of elections of Councillors held since the last meeting
  - (d) deal with business expressly required by statute in an officer report, except where it is included in a report of the Cabinet or a Committee (See below).
  - (e) receive the Lord Mayor’s communications
  - (f) receive declarations of interests from Members and Officers of the Council
  - (g) **receive petitions and deputations, including considering petitions as required by the Council’s Petition Scheme.**
  - (h) have a 45-minute period for questions in accordance with Standing Order 9.
  - (i) deal with Councillor issues in accordance with Standing Order 10.
  - (j) with the approval of the Chairman of the meeting, receive from the Leader of the Council a statement on an urgent matter,

provided that the Leader of the Opposition shall have an equivalent opportunity to reply to such statement.

- (k) dispose of business, if any, specified in the summons outstanding from a previous meeting.
  - (l) receive and consider the report and any recommendations of the Cabinet (which will incorporate any recommendations of the individual Cabinet Members)
  - (m) receive and consider the reports and any recommendations of Committees.
  - (n) consider issues from the Future Policy Plan notified by the Chief Whips of the political parties in accordance with Standing Order 11.
  - (o) consider motions of which written notice has been given in accordance with Standing Order 12.
  - (p) dispose of any other business specified in the summons.
- (3) The Chairman may vary the order of business.

## **8. Petitions**

**Petitions shall be submitted and considered by the Council in accordance with the Petition Scheme approved by the Council on 19 May 2010, as set out in the Council's Constitution.**

- 3.10 The petition scheme, in accordance with guidance, also allows for the relevant Policy and Scrutiny Committee to receive representations from petitioners relating to the way in which the matter has been dealt with.

## **4. Financial Implications**

- 4.1 Government has estimated that the national cost to the public sector of responding to local petitions will be approximately £4.7 million per year, decreasing over time. These costs arise from increased work for council officers, time at council meetings and scrutiny committees, and set up costs for e-petitions. Local authorities will each receive a grant for 2010/11. This amount will vary by local authority dependent on the local population. It is expected that funding for future years will be incorporated into the revenue support grant.
- 4.2 Guidance on the e-petition duty of the 2009 Act has yet to be issued. Depending on the requirements, creating a website based e-petition system could be costly. The City Council will lobby Government for full reimbursement of these costs should they not be fully covered by the 2010/11 grant.

4.3 The implementation and management of the aspects of the petition scheme which is due to commence on the 15 June can be met from existing budgets.

## **5. Legal Implications**

5.1 The City Council is required to introduce a petition scheme in accordance with the Local Democracy, Economic Development and Construction Act 2009. Should it become apparent that the City Council has set requirements which are unachievable the Secretary of State has the power to direct the City of Westminster to amend its petition scheme.

5.2 It is a requirement of the Act that the Petition scheme be approved by a meeting of the full council before it comes into force, ie 15<sup>th</sup> June 2010. The General Purposes Urgency Sub-Committee is therefore asked to recommend that the Council adopt the scheme at the Annual Meeting on 19 May 2010.

5.3 The e-petition elements of a Council's petition scheme are not required to be implemented until 15 December 2010. These will therefore be the subject of a further report to the General Purposes Committee on 20 October 2010.

## **6. Staffing Implications**

6.1 The petition scheme will result in increased work for those council officers directly responsible for managing the scheme as well as those responsible for developing and implementing the e-petition duty. However, it is anticipated that this can be managed within existing resources.

## **7. Outstanding Issues**

7.1 As best practice advice on e-petitions and the development of a set of e-petitions data standards has yet to be issued by Communities and Local Government, the City Council has not yet developed proposals for this particular duty. Proposals will be developed once guidance has been issued and approval will be the subject of a separate report. The date for the implementation of this element of the scheme is 15 December 2010.

## **8. Reason for Decision**

8.1 The establishment of a City of Westminster Petition Scheme ensures that the City Council complies with the requirements of the petition provisions of the Local Democracy, Economic Development and Construction Act 2009.

## **Background Papers**

1. Local Democracy, Economic Development and Construction Act 2009
2. Listening to communities: Statutory guidance on the duty to respond to petitions

## Appendices

### A. Proposed City of Westminster Petition Scheme

**If you have any queries about this Report or wish to inspect any of the Background Papers, Please Contact: Reuben Segal on 020 7641 3160, fax 020 7641 2917, email [rsegal@westminster.gov.uk](mailto:rsegal@westminster.gov.uk).**

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