



ADUR & WORTHING
COUNCILS

Joint Governance Committee
24 September 2019
Agenda Item 9

Ward(s) Affected: All

Petition Scheme: Update and Revisions

Report by the Solicitor to the Council and Monitoring Officer

Executive Summary

1. Purpose

- 1.1. As part of the ongoing review work of the Constitution undertaken by the Monitoring Officer, the Councils' Petition Schemes have been reviewed and updated. This report requests that Members of the Joint Governance Committee note the revisions made.

2. Recommendations

- 2.1. Members of the Joint Governance Committee are requested to note the revised Worthing Borough Council and Adur District Council Petition Scheme which becomes effective on 25th September 2019.

3. Context

- 3.1. The Monitoring Officer has a responsibility to maintain an up to date Constitution on behalf of each Council and has delegated authority on behalf of each Council to make minor amendments to the Constitution. Accordingly the Monitoring Officer carries out a continuous review of each Council's constitutions, revising and updating documents accordingly, to reflect changes in legislation, best practice and procedural efficiency.
- 3.2. The Monitoring Officer has recently reviewed the Councils' Petition Schemes and has made minor amendments in the light of recent practical experience to ensure the scheme is legal, fair, transparent and efficient.
- 3.3. Minor amendments have been made by the Monitoring Officer under her delegations and will become effective on 25th September 2019. The new schemes will form part of the Constitutions at Part 5 and will be published on the Council's website.

4. Issues for consideration

- 4.1. The revisions are contained within a tracked change document reproduced at appendix 1 of this report, and a clean version of the same document is reproduced for ease of reference at appendix 2 to this report.
- 4.2. It should be noted that the documents produced relate to Worthing Borough Council's Petition Scheme; the revised scheme for Adur District Council has not been reproduced but is identical.
- 4.3. The revisions can be summarised as follows:
 - Changes have been made to clarify that petitions will only be accepted at Ordinary meetings of the full Council, not at Annual Council, nor Special or Extraordinary meetings.
 - Revisions have been made to clarify that the Monitoring Officer is the Proper Officer in respect of the Petition Scheme and the contact details have been amended accordingly.

- Petitions that may affect the Council's ability to set a balanced budget at the budget setting meeting may now be excluded as budget proposals are dealt with in accordance with the Budget Procedure Rules adopted by each Council last year.
- Greater clarity has been provided around specific roles to ensure accountability.
- An option to refer a qualifying petition to the Executive or the Committee within whose remit the matter falls, has been included as a possible response.
- Format and language has been amended for clarity and to ensure the document is easily understandable and logical.

5. Financial Implications

5.1. There are no financial implications arising from this report.

6. Legal Implications

6.1. The Local Democracy, Economic Development and Construction Act 2009 placed an obligation on the Councils to have a petition scheme. The legislation was repealed by the Localism Act 2011 and there is no longer any statutory requirement to accept petitions from the public or deal with them in a certain way (with the exception of petitions under other legislation such as dealing with referendums etc). However, it is still considered good practice for a Council to retain a petition scheme as it sends a clear message to the public that the Council takes their views seriously and encourages their engagement in the democratic process.

Background Papers

- Worthing Borough Council Petition Scheme
- Adur District Council Petition Scheme

Officer Contact Details:-

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Sustainability & Risk Assessment

1. Economic

Matter considered and no issues identified

2. Social

2.1 Social Value

Matter considered and no issues identified

2.2 Equality Issues

Matter considered and no issues identified

2.3 Community Safety Issues (Section 17)

Matter considered and no issues identified

2.4 Human Rights Issues

Matter considered and no issues identified

3. Environmental

Matter considered and no issues identified

4. Governance

Governance issues are addressed in the report

THE BOROUGH COUNCIL OF WORTHING PETITION SCHEME

1.0 PETITIONS

The Council welcomes petitions and recognises that they are a way in which the public can let the Council know about their concerns. Petitions can be submitted in paper or electronic form and a petition can be received by the Council by post, electronically or be hand delivered. All petitions must be sent to the ~~Proper~~ Monitoring Officer, Town Hall, Chapel Road, Worthing, BN11 1HA or ~~properofficer@adur-worthing.gov.uk~~ monitoringofficer@adur-worthing.gov.uk.

2.0 CONTENT

2.1 Petitions submitted to the Council must:

- (a) include a clear and concise statement covering the subject of the petition stating what action the petitioners wish the Council to take;
- (b) be accompanied by the name, address and contact details of the Petition Organiser; and
- (c) contain a minimum of 50 names, full postal addresses and signatures of people who live, work or study in the Borough Council of Worthing and who support the petition.

3.0 PETITION ORGANISER

The Petition Organiser is the person the Council will contact to explain how it will respond to the petition. The contact details of the Petition Organiser will not be placed on the Council's website.

4.0 ACKNOWLEDGEMENT

An acknowledgement will be sent to the Petition Organiser, by the Monitoring Officer, within five working days of receiving the petition. The acknowledgement will advise the petition organiser if their petition has been rejected by the Monitoring Officer on any of the grounds below, or accepted.

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54.0 REJECTION BY THE MONITORING OFFICER RESTRICTIONS

54.1 A petition may be rejected by the ~~Proper~~ Monitoring Officer should he/she consider that the petition:

- (a) contains intemperate, inflammatory, abusive or provocative language, is defamatory, frivolous, vexatious, discriminatory or otherwise offensive or contains false statements;
- (b) is similar to another petition submitted to the Council within the previous six months;
- (c) discloses confidential or exempt information, including information protected by a court order;
- (d) discloses material which is commercially sensitive;
- (e) contains names of individuals as the target of the petition, or provides information where the individual could be easily identified;
- (f) contains advertising statements;
- (g) refers to an issue which is currently the subject of a formal Council complaint, Local Government Ombudsman complaint or legal proceedings;
- (h) relates to the Council's Planning or Licensing functions (as there are separate processes in place to deal with those matters);
- (i) Relates to a response to the Council as part of a formal consultation process;
- (j) relates to a matter where there is already an existing right of appeal, such as Council Tax Banding and non-domestic rates, (as there are separate processes in place to deal with those matters);
- (k) relates to a statutory petition, for example if at least 5% of Local Government electors in the District petition the Council to hold a referendum on whether it should change to a different form of governance (as there are separate processes to deal with those matters);
- (l) does not relate to an issue upon which the Council has powers or duties or on which it has shared delivery responsibilities. However, if the petition is about something over which the Council has no direct control the ~~Proper Monitoring~~ Officer will give consideration to the best method for responding to it. For example, the Council may make representations on behalf of the community to the relevant body or forward the petition to the relevant body. In any event the Council will always notify the Petition Organiser of the action it has taken;
- (m) has already been the subject of debate by Full Council within the previous six months;

(n) is received during politically sensitive times, such as prior to an election or referendum, and the petition contains politically controversial material. In that situation the ~~Proper~~ Monitoring Officer may need to agree a revised timescale for the acceptance of the petition.

~~(o) relates specifically to the annual budget resolution, which is governed by the Councils Budget Procedure Rules~~

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~~(p) it contains less than 50 names, addresses and signatures of individuals who live, work or study in the Borough~~

~~4.2 If the Proper Officer decides that a petition cannot be accepted for any of the reasons outlined above then the Petition Organiser will be informed of that decision within five working days of the decision.~~

65.0 ACCEPTED PETITIONS: THE COUNCIL'S RESPONSE TO PETITIONS

5.1 Acknowledgement

~~An acknowledgement will be sent to the Petition Organiser within five working days of receiving the petition.~~

~~If the Monitoring Officer has accepted the petition, the Petition Organiser will be advised what the Monitoring Officer he acknowledgment will let them know what the Council plans to do with the petition and when they can expect to hear from the Council.~~

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The petition ~~(but not the Petition Organiser's details)~~ and the details of what the Council will do will also be published on the Council's website.

5.2 The Council's Response

~~The Council's 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:~~

- ~~(a) taking the action requested;~~
- ~~(b) considering the petition at a Full Council meeting;~~
- ~~(c) holding an enquiry into the matter;~~
- ~~(d) undertaking research into the matter;~~
- ~~(e) holding a public meeting;~~
- ~~(f) holding a consultation;~~
- ~~(g) holding a meeting with the petitioners;~~

- ~~(h) — referring the petition for consideration by the Overview & Scrutiny or Joint Overview & Scrutiny Committee;~~
- ~~(j) — writing to the Petition Organiser setting out the Council's views about the request in the petition;~~
- ~~(k) — deciding not to agree to do what is asked in the petition.~~

6.1 Non-qualifying petitions

Non-qualifying petitions are defined in this scheme as petitions with more than 50 signatories but less than 1,000, and those petitions shall be referred to the relevant decision-maker, by the Monitoring Officer.

Where the decision-maker is the Executive, a Committee or Joint Committee, then the Petition Organiser shall be advised as to when and where the petition is to be considered and shall be allowed to attend and speak for up to 5 minutes in support of the petition. Following which the Members shall discuss the petition and decide how to respond to it. Once a decision is made the decision-maker will notify the Petition Organiser in writing of the response with reasons for the decision within five working days.

Where the decision-maker is an individual Executive Member or an Officer they shall meet with the Petition Organiser to discuss the contents of the petition. Following which they shall determine how to respond to it. Once a decision is made the decision-maker will notify the Petition Organiser in writing of the response with reasons for the decision within five working days.

6.25-3 Qualifying Petitions

Qualifying petitions are defined in this scheme as petitions containing more than 1,000 names, full postal addresses and signatures of people who live, work or study in the Borough Council of Worthing and support the petition, and containing the other details outlined above.

On receipt of a qualifying petition, where time permits, the petition will be debated by the Full Council, at their next Ordinary Meeting. The Petition Organiser will be given five minutes to present-read the petition at the meeting and make any representations and the petition will then be discussed by Councillors in accordance with the Council's Standing Orders as contained in Part 4 of this Constitution. The Council will decide, by way of a motion being proposed, seconded and voted upon, how to respond to the petition at this meeting.

If the petition relates to action currently being progressed by the Council and the petition will trigger a debate at Full Council, as it is accepted by the Monitoring Officer and is a qualifying petition, then the action will be suspended pending the debate, unless in relation to statutory, contractual or other legal situations where a suspension would, in the view of the Monitoring Officer, prejudice the Council's position.

Where a petition is accepted by the Monitoring Officer and is a qualifying petition but time does not permit a debate at Full Council, for example because an action that is the subject of the petition will occur prior to the next meeting of the Full Council, the petition will be referred by the Monitoring Officer to the appropriate decision-maker, Executive or relevant Committee or Joint Committee. Once a decision is made the decision-maker will notify the Petition Organiser in writing of the response with reasons for the decision within five working days.

~~If the qualifying petition is on a matter relating specifically to the annual budget resolution and cannot be deferred, the Mayor will use their discretion as to how the matter will be handled.~~

~~Once a decision is made the decision-maker will notify the Petition Organiser in writing of the response with reasons for the decision within five working days.~~

5.4 Non-qualifying petitions

~~Non-qualifying petitions are defined in this scheme as petitions with more than 50 signatories but less than 1,000, and these petitions shall be referred to the relevant decision-maker.~~

~~Where the decision-maker is the Cabinet, a Committee or Joint Committee then the Petition Organiser shall be advised as to when and where the petition is to be considered and shall be allowed to attend and speak for up to 5 minutes in support of the petition. Following which the Members shall discuss the petition and decide how to respond to it. Once a decision is made the decision-maker will notify the Petition Organiser in writing of the response with reasons for the decision within five working days.~~

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The Council's 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:

- (a) taking the action requested;
- (b) receiving and considering the petition at the next Ordinary Council meeting;
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