

WIRRAL COUNCIL

SCRUTINY PROGRAMME BOARD - 3 JUNE 2010

REPORT OF THE DIRECTOR OF LAW, HR AND ASSET MANAGEMENT

IMPLEMENTATION OF THE PETITION SCHEME IN WIRRAL

EXECUTIVE SUMMARY

The Council at its meeting on 19 April 2010 approved a Petition Scheme in accordance with the requirement of the Local Democracy, Economic Development and Construction Act 2009. This Scheme has now been attached as an addendum to the Council's Constitution and is also attached as an **Annex** to this report. This report sets out the role for Overview and Scrutiny Committees and the Scrutiny Programme Board in this new Scheme and informs of arrangements being made for the Council to receive petitions electronically.

1. Background

- 1.1 The Local Democracy, Economic Development and Construction Act 2009 Commencement Order No.3 was issued on 19 March 2010, bringing into force the requirement for the Council to have a Scheme for Petitions in place by 15 June 2010 and a facility for making petitions in electronic form to the Council by 15 December 2010.
- 1.2 Signing a petition is one way for citizens to express their concerns and priorities to the Council. The Citizenship Survey (2007-2008) showed that petitions were the most popular and recognised form of civic action. Some councils already had well developed processes for responding to petitions and approached them as an opportunity to listen to the community and demonstrate local leadership.
- 1.3 The Department for Communities and Local Government examined all local authority websites in April 2008, and found that only one in five councils made details about how to submit a petition publicly available. In a climate where only 39% of people felt they could influence decisions in their local area and in some areas 48% felt that their council kept them well informed about the services it provided it was considered essential that people could easily find out how to send their views about public services to local decision makers. The 2009 Act makes significant steps towards addressing this.

2. Issues

- 2.1 The Scheme for Petitions applies to petitions which:
 - (a) request the Council to take, or cease to take action described in the petition;
 - (b) are signed by a requisite number of people living, working or studying in the Borough (see paragraph 2.2 below);
 - (c) are not a requirement of other legislation, for example a petition for an Elected Mayor; and
 - (d) are submitted using the Council's e-petition facility which must be available by 15 December 2010 (see paragraph 6.1 below).
- 2.2 The Scheme sets no threshold on the number of signatures required to request the Council to take action, so making it responsive to local issues, as well as bigger issues

affecting the whole Borough. The Scheme provides for petitions with 1500 or more signatures to trigger a debate by the Council. 750 signatures are required to mandate a senior officer to give evidence at a public meeting of an Overview and Scrutiny Committee or the Scrutiny Programme Board.

- 2.3 The statutory instrument makes it clear that planning and licensing decisions 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. The Council may receive petitions in relation to planning and licensing and set out how these will be dealt with outside of the requirements of the new duty.
- 2.4 The consideration of petitions may also be refused if the issue is the subject of legal proceedings; relates to individual members of the community or are excluded matters. Excluded matters are set out in The Local Authorities (Petitions) (England) Order 2010 as:-
- Any matter relating to a planning decision;
 - Any matter relating to a licensing decision;
 - Any other 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.
- 2.5 Petitions that are specifically covered in other legislation are also excluded from the duty and the Council's scheme. Such petitions will continue to be dealt with under the provisions of the appropriate legislation.
- 2.6 In responding to petitions, the Council will be required to be proportionate to the seriousness of the issue raised.
- 2.7 Should a petition call for an action that is contrary to Council policy, then it will be sufficient to refuse the request providing that an explanation is given. Vexatious petitions may be refused under the Scheme. It is recommended that the same criteria be used as that in guidance for dealing with freedom of information requests.

3.0 Actions to be taken when a Petition is Received

- 3.1 When a petition is received, the scheme provides for:-
- Attendance by the officer at the relevant Overview and Scrutiny Committee or the Scrutiny Programme Board to ask questions and
 - The petitioner to receive any report/recommendations made by the relevant Overview and Scrutiny Committee or the Scrutiny Programme Board.
- 3.2 Among the possible steps which the Council may choose to take in response to a petition are the following:-
- Taking the action requested
 - Considering the petition at Council
 - Holding an enquiry
 - Holding a public meeting
 - Commissioning research
 - A written response setting out the Council's view on the issue

- Referring the matter to the relevant Overview and Scrutiny Committee or the Scrutiny Programme Board

4.0 Review by Overview and Scrutiny

- 4.1 Petition organisers who are dissatisfied with the Council's response can ask for a review to an Overview and Scrutiny Committee or the Scrutiny Programme Board, which will be required to determine whether the action agreed by the Council in response to the petition is adequate.
- 4.2 The Overview and Scrutiny meeting will be held in public and the organiser of the petition must be invited unless confidential information would be revealed. Notification of the meeting and any report or recommendations arising from it must be communicated to the organiser and placed on the Council's website.
- 4.3 If the relevant Overview and Scrutiny Committee or the Scrutiny Programme Board is of the view that the Council's response is inadequate, having regard to the possible responses and matters of proportionality, it may use its existing powers to conduct its own review of the issue under the Local Government Act 2000.
- 4.4 If the relevant Overview and Scrutiny Committee or the Scrutiny Programme Board is of the opinion that the Council has seriously neglected its responsibility to listen to the local community in its response to the petition, it may refer the matter to full Council to review. The outcome of that review will be communicated to the petition organiser and appear on the Council's website.

5.0 Implications

- 5.1 Procedurally, the Council will need to make a number of changes to its Constitution. The Council Procedural Rules - Standing Orders will need to be amended to comply with the duty. Amendments will also be required to Overview and Scrutiny Procedure Rules.
- 5.2 One of the potential responses to any petition received is for the Council or Cabinet to refer it for consideration by the Overview and Scrutiny process. As the Council will have a duty to respond to the concerns expressed by the petition, an Overview and Scrutiny Committee or the Scrutiny Programme Board will have little option but to consider it, which could have significant workload implications and be detrimental to planned work programmes.

6.0 E-Petitions

- 6.1 To facilitate the Council's requirement to accept e-petitions it will use its existing Modern.gov system to receive petitions in electronic form. This is part of the Modern.gov system's functionality and consequently there will be no additional cost to the Council for the e-petition facility. A demonstration and appropriate training will be provided for Committee Officers in the summer and it is intended that the mechanism to accept e-petitions will be live, in advance of the requirement coming into force 15 December 2010.
- 6.2 The Scheme for Petitions allows all residents of the Borough to submit a petition, requiring the Council to consider and take appropriate action on the request, whether in paper or electronic form. As 'paper' petitions are still acceptable, persons without

access to the internet are not precluded from organising, signing, or submitting a petition.

7.0 Conclusion

7.1 There are no direct financial implications identified at this stage with the implementation of the Scheme. It is unlikely that there will be significant costs associated with the introduction of e-petitioning as the current Council web-site is capable of hosting this facility. Costs may arise from administration of the Scheme, but this will be dependant on the volume of new administration generated by the duty and scheme.

8.0 Recommendations: That

- (1) the implications of the Petition Scheme to the Overview and Scrutiny function be noted; and
- (2) Council be recommended to amend its Constitution to ensure the implementation and smooth running of the Scheme.