

**REPORT TO:** CABINET MEMBER – CORPORATE SERVICES

**DATE:** 3<sup>rd</sup> February 2009

**SUBJECT:** CONSULTATION ON DRAFT STATUTORY GUIDANCE ON THE DUTY TO RESPOND TO PETITIONS

**WARDS AFFECTED:** ALL

**REPORT OF:** CAROLINE ELWOOD, LEGAL DIRECTOR

**CONTACT OFFICER:** ANDREA GRANT Ext 2030

**EXEMPT/  
CONFIDENTIAL:** NO

**PURPOSE/SUMMARY:**

To consider a draft response to the Government's consultation on the draft statutory guidance on the duty to respond to petitions.

**REASON WHY DECISION REQUIRED:**

To enable a response to be forwarded to the Department of Communities and Local Government before the deadline of 24<sup>th</sup> February 2010.

**RECOMMENDATION(S):**

That the draft response to the consultation on the draft statutory guidance on the duty to respond to petitions be approved for submission to the Department of Communities and Local Government.

**KEY DECISION:** No

**FORWARD PLAN:** Not appropriate

**IMPLEMENTATION DATE:** Following the expiry of the "call-in" period for the Minutes of this meeting.

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**ALTERNATIVE OPTIONS:**

None

**IMPLICATIONS:****Budget/Policy Framework:** None arising from this report.**Financial:**

| <b><u>CAPITAL EXPENDITURE</u></b>                  | <b>2009/<br/>2010<br/>£</b> | <b>2010/<br/>2011<br/>£</b> | <b>2011/<br/>2012<br/>£</b> | <b>2012/<br/>2013<br/>£</b> |
|--|-----------------------------|-----------------------------|-----------------------------|-----------------------------|
| Gross Increase in Capital Expenditure              |                             |                             |                             |                             |
| Funded by:   |                             |                             |                             |                             |
| Sefton Capital Resources                           |                             |                             |                             |                             |
| Specific Capital Resources                         |                             |                             |                             |                             |
| <b><u>REVENUE IMPLICATIONS</u></b>                 |                             |                             |                             |                             |
| Gross Increase in Revenue Expenditure              |                             |                             |                             |                             |
| Funded by:   |                             |                             |                             |                             |
| Sefton funded Resources                            |                             |                             |                             |                             |
| Funded from External Resources                     |                             |                             |                             |                             |
| Does the External Funding have an expiry date? Y/N | When?                       |                             |                             |                             |
| How will the service be funded post expiry?        |                             |                             |                             |                             |

**Legal:** The Legal Director supports this proposal.**Risk Assessment:****Asset Management:** None arising from this report.**CONSULTATION UNDERTAKEN/VIEWS**

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## CORPORATE OBJECTIVE MONITORING:

| <u>Corporate Objective</u> |   | <u>Positive Impact</u> | <u>Neutral Impact</u> | <u>Negative Impact</u> |
|----------------------------|---|------------------------|-----------------------|------------------------|
| 1                          | Creating a Learning Community   |                        | √                     |                        |
| 2                          | Creating Safe Communities   |                        | √                     |                        |
| 3                          | Jobs and Prosperity   |                        | √                     |                        |
| 4                          | Improving Health and Well-Being   |                        | √                     |                        |
| 5                          | Environmental Sustainability  |                        | √                     |                        |
| 6                          | Creating Inclusive Communities  | √                      |                       |                        |
| 7                          | Improving the Quality of Council Services and Strengthening local Democracy | √                      |                       |                        |
| 8                          | Children and Young People   |                        | √                     |                        |

## LIST OF BACKGROUND PAPERS RELIED UPON IN THE PREPARATION OF THIS REPORT

### 1.0 BACKGROUND:

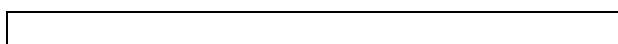
- 1.1 Sections 10 to 22 of The Local Democracy, Economic Development and Construction Act 2009 include requirements for every principal local authority in respect of petitions. Although the Act received Royal Assent on 12<sup>th</sup> November 2009, the provisions relating to petitions have yet to be implemented and the Government is now consulting on the guidance that will apply to those provisions.
- 1.2 The main statutory requirements that will relate to the Council are as follows –
- i) To have an on-line petition facility which allows anyone to set up a petition on the Council's system, and allows anyone to 'sign' the petition on-line.
  - ii) To adopt a petition scheme which sets out how the Council will acknowledge receipt of petitions and advise the petition organiser how the petition will be dealt with. The Act requires that the petition scheme define three categories of petition, and set a minimum number of signatures for each type of petition.
- 1.3 For 'ordinary petitions', the authority is given wide flexibility to set the threshold number of signatures as high or low as it wishes, and to determine how such petitions will be dealt with. The Government recommend however that the Council set a low threshold and the Secretary of State will have the power to direct a Council to amend its petition scheme if it is proving to be unworkable.

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- 1.4 'Petitions requiring Debate' must be reported to full Council for debate, and the Council will be able to set a higher number of signatures as the threshold for this type of petition. Note however that currently the draft guidance states that the threshold must be no higher than 5% of the local population. According to the most recent population estimates, 5% of Sefton's population is 13,755.
- 1.5 'Petitions to hold an officer to account' must name a senior officer and will trigger an open meeting of an appropriate Overview and Scrutiny Committee at which the officer may be questioned by the Committee in relation to his or her actions on a particular matter. The Council will be able to set a different threshold number of signatures for this type of petition, although again, a low threshold is recommended.
- 1.6 To fall in with the requirements of the scheme, the petition must relate to a function of the authority or, to 'an improvement in the economic, social or environmental well-being of the authority's area to which any of the authority's partner authorities could contribute'. The Act provides that a petition may be signed by anyone who lives, works or studies in the authority's area.
- 1.7 The Council will be able to reject petitions which are considered to be vexatious, abusive or otherwise inappropriate.
- 1.8 The new petition scheme does not apply to petitions received under other statutory procedures, such as petitions for an elected mayor referendum. Matters relating to planning decisions and licensing decisions are also specifically excluded.
- 1.9 Where the petition organiser is not satisfied by the actions taken by the authority in response to a petition, the petition scheme must give a right of appeal to a relevant Overview and Scrutiny Committee. That Committee will then be able to review the decision and action taken by way of a response and make appropriate recommendations.

## **2.0 E-petitions**

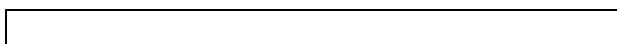
- 2.1 The 2009 Act applies the same requirements to electronic petitions as to paper petitions, except for the following:
  - local authorities are only required to respond to e-petitions made through their e-petition facility;
  - authorities must decide, when a request to host an e-petition is received, whether the petition is appropriate for publishing on their web site;
  - the authority will need to decide what equates to a signature on an e-petition
  - local authorities are required to provide a facility for people to submit petitions to the authority electronically. In addition to this, local authorities can choose to respond to e-petitions submitted by other means and should indicate in their petition scheme how they will deal with these types of petitions.



- 2.2 A local authority's petition scheme must secure that the authority's e-petition facility allows citizens to create a petition which can be published online and made available to others for electronic signature. The Government does not consider that acceptance of emailed petitions meets this requirement.
- 2.3 Authorities should consider how to integrate their e-petition process with relevant online information and existing online functions. The suggestion is that it could be linked to council meetings or decisions, to the minutes or webcast of the relevant meeting, to online forums and most importantly, to the authority's published response to the petition.
- 2.4 When taking the decision whether to host an e-petition the authority should consider pertinent issues when publishing any information of their website. Eg issues such as data protection, libel and the statutory requirement, as a public body, to comply with equalities and antidiscrimination legislation.
- 2.5 If we decide not to host an e-petition we are required to give reasons why this decision has been taken. This will allow petitioners an opportunity to amend and resubmit their petition.
- 2.6 The Department of Communities has indicated that further sector led best practice guidance on e-petitions will be available, including practical advice for selecting and setting up an e-petitions facility and a set of recommended data standards. However they have not given any timescale for this.

### **3.0 Sefton's current arrangements**

- 3.1 The Council already has a long established process for dealing with petitions. Area Committees hear and consider petitions relating to matters within their purview (with the exception of specific planning or licensing matters which follow the procedures set out in the Council and Committee procedure rules).
- 3.2 In addition, Members of the public may attend meetings of the Council to present petitions, including making a brief (5 minute) statement as to the content of their petition. Councillors may also present a petition on behalf of residents on matters affecting their ward. The rules governing petitions at the moment are set out below:
- Persons intending to present a petition are required to notify the Legal Director by 12 noon on the day before the Council Meeting.
  - Petitions need to be signed by at least 25 people, who are residents of the Borough.
  - Petitions must be relevant to the discharge of the Council's functions.
  - Petitions should not refer to individual officers of the Council by name.
  - Petitions are referred, without debate, to the appropriate Cabinet Member or Committee.
  - The Mayor, in consultation with the Legal Director, has the power to determine that a petition is out of order, where it does not comply with the above procedures.



#### **4.0 The Consultation**

- 4.1 The Department for Communities and Local Government is consulting on the draft guidance and the full consultation paper is attached at Appendix 1.
- 4.2 The consultation paper incorporates a draft model petition scheme which Councils will be able to adapt for their own use.
- 4.3 There are 12 specific questions within the consultation document and the closing date for responses is 24<sup>th</sup> February 2010.
- 4.4 It should be pointed out that the consultation has raised a considerable level of interest within the Local Government community. A number of issues have been raised in connection with the proposals as they currently stand, with particular emphasis on required threshold levels, on-line petition verification/security methods and appropriate levels of accountability.

#### **5.0 Consultation Questions**

- 5.1 The consultation questions are set out below and suggested responses are in italics below.
- 5.2 Question 1 - Does the guidance clearly set out the key principles and requirements of the petitions duty?

*Yes the guidance is clear but does not take into account any existing measures the Council has in place for dealing with petitions.*

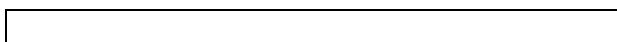
- 5.3 Question 2 – Are there any existing areas in the guidance which require further clarification?

*There is no suggestion that a minimum threshold for petitions is set. This would be essential to distinguish petitions from ordinary correspondence – although this would need to be set locally and at a relatively low level.*

*For petitions that are ‘requiring debate’, this would inevitably lead to Council debating executive matters that are the responsibility of the Cabinet. It would be helpful if the guidance allowed the formal referral of such petitions to the Cabinet for consideration.*

*The issue of thresholds being set at different levels for different subject matters (set out in paragraph 19 of the consultation paper) could lead to a complicated and bureaucratic process that would be difficult to implement and frustrating for petitioners.*

*The role of elected Members in instigating and promoting a petition needs to be clarified, particularly their role in any investigation subsequently carried out.*



- 5.4 Question 3 - Are there any additional areas which you feel this statutory guidance should cover ? If so, please state what they are and why you feel they should be included.

*Depending on the level of submissions, Council meetings could be considerably extended – a time limit for the time spent on petitions per Council meeting could be useful.*

*The guidance should also cover the issue of multiple petitions on the same topic.*

- 5.5 Question 4 - Are there any additional areas which, while not appropriate for statutory guidance, you would like to see covered by sector-led guidance?

*It would be helpful to have some guidance on protocols for dealing with cross-boundary petitions to enable them to be dealt with in a consistent manner.*

- 5.6 Question 5 - Are there any areas covered in this statutory guidance which you feel would be more appropriately covered in sector-led guidance? If so, please state what they are and why you feel they should be addressed in this way.

*See response to Question 4 above.*

- 5.7 Question 6 - Do you think the model scheme is clearly expressed and easy for people to use ? Please give your reasons

*Yes subject to the details on thresholds set out above.*

- 5.8 Question 7 - Do you think the standards set in the model scheme are achievable and appropriate to citizens expectations ?

Yes

- 5.9 Question 8 - Do you think there is anything that should be added to the model scheme ?

*No but it could be subject to review following a period of operation.*

- 5.10 Question 9 - Do you agree with the categories we have excluded in the order? If you do not agree with the categories please explain why you do not think they should be excluded.

Yes

- 5.11 Question 10 - Do you think there should be additional categories excluded? If so please state what they are and why you feel they should be excluded

*The exclusion of petitions relating to politically controversial subjects around elections should be considered*

- 5.12 Question 11 - Following on from this consultation, what do you consider the most appropriate timescale for bringing the petitions duty into force? Please explain your reasons

*The proposed timetable for implementation (1<sup>st</sup> April 2010) would be tight to achieve and is close to the local government elections. It may be more appropriate to introduce at the start of the new Municipal Year.*

- 5.13 Question 12 - Initial discussions with both the local government and technology sector indicate that it would be wise to stagger the implementation of the e-petition element of the duty, bringing the e-petition requirements into force 12 months after the other elements of the duty are commenced. Do you agree? Please explain your reasons.

*Yes - It is sensible to introduce the e-petitions element once systems can be tested and quality assured. However, it may be confusing to stagger implementation.*