

## Agenda Item 5.2.1

### **Report of Special Committee (Constitution Review)**

**13 October 2010**

\* Chairman: Councillor Anthony Finn

Vice-Chairman: Councillor Joan Scannell

#### Councillors

Jack Cohen	* Tom Davey	* Barry Rawlings
* Melvin Cohen	* Andrew Harper	* Alan Schneiderman
* Richard Cornelius	* Alison Moore	

\* denotes Member present

#### **5.2.1.1 CHANGES TO THE STANDARDS COMMITTEE'S TERMS OF REFERENCE (Report of the Director of Corporate Governance – Agenda item 6)**

The Committee considered the Director of Corporate Governance, attached as Enclosure 1, proposing various changes (contained in Appendix A to the report) resulting from the annual review of the Standards Committee's terms of reference. Having considered the proposed changes, the Committee agreed, for the reasons given in the report, to recommend Council to approve the changes and accordingly

**RESOLVED TO RECOMMEND – That Council approves the amendments to the Terms of Reference of the Standards Committee as set out in Appendix A of the report attached as Enclosure 1.**

#### **5.2.1.2 LOCAL DEMOCRACY, ECONOMIC DEVELOPMENT AND CONSTRUCTION ACT 2009 – REQUIREMENT FOR A PETITION SCHEME (INCLUDING E-PETITIONS) (Report of the Director of Corporate Governance – Agenda Item 7)**

The Committee considered the report attached at Enclosure 2 setting out proposed amendments to the Constitution as required by the Local Democracy, Economic Development and Construction Act 2009 for a Petition Scheme (including e-petitions).

The Committee were addressed by Mr John Dix in connection with the proposals in the report for the size of petition requiring (a) that an officer be held to account and (b) that an issue be debated by Council. Having considered this point the Committee agreed that the thresholds proposed in the report were unlikely ever to be achieved and were of the view that the following signature thresholds should be set

- 2,000 for a relevant officer to be called to account before an Overview and Scrutiny Committee.
- 7,000 for petitions to be debated at a full meeting of the Council.

Accordingly and for the reasons given in the report, the Committee

#### **RESOLVED TO RECOMMEND**

- 1. That Council note the requirements of the Local Democracy, Economic Development and Construction Act 2009 ("the 2009 Act").**
- 2. That Council**
  - (a) approve the introduction of a Petition Scheme which meets the requirements of the 2009 Act on the basis set out in the report, with the exception of the signature thresholds needed to require (a) that an officer be held to account and (b) that a petition be debated by Council, which should be 2,000 and 7,000 respectively.**
  - (b) approve the adoption of the amendments to the Constitution set out in Appendix C of the report attached as Enclosure 3.**
  - (c) instruct the Director of Corporate Governance to facilitate a process for publishing petitions electronically via the Council's website and provide reasons for refusal of an e-petition if it is deemed inappropriate for publishing on the website.**

## Enclosure 1

---

Meeting	Special Committee (Constitution Review)
Date	13 October 2010
<b>Subject</b>	<b>Changes to the Standards Committee's terms of reference</b>
Report of	Director of Corporate Governance (Monitoring Officer)
Summary	This report provides the committee with proposed changes to the Standards Committee's terms of reference.

---

Officer Contributors	Jeff Lustig, Director of Corporate Governance (Monitoring Officer), Seye Aina, Senior Governance Advisor
Status (public or exempt)	Public
Wards affected	All
Enclosures	Appendix A: proposed changes to Article 9 of the Constitution
For decision by	Special Committee (Constitution Review)
Function of	Council
Reason for urgency / exemption from call-in (if appropriate)	N/A

---

Contact for further information:	Seye Aina, Senior Governance Advisor 020 8359 7156, <a href="mailto:seye.aina@barnet.gov.uk">seye.aina@barnet.gov.uk</a>
----------------------------------	---

## **1. RECOMMENDATIONS**

- 1.1** That the Committee notes the terms of reference of the Standards Committee as set out in Appendix A.
- 1.2** That the Committee considers the proposed changes to the terms of reference identified in Appendix A
- 1.3** That the Committee agree the constitutional amendments arising from the report and make a recommendation to Council to approve the changes.

## **2. RELEVANT PREVIOUS DECISIONS**

- 2.1** 31 March 2008 – The Special Committee (Constitution Review) considered and made recommendations in respect of changes to the constitution; some of which related to the requirements from the Local Government and Public Involvement in Health Act 2007 and its impact on Standards Committees.
- 2.2** 15 April 2008 – Council considered the recommendations from the Special Committee (Constitution Review) and agreed changes to the constitution, including those related to the requirements from the Local Government and Public Involvement in Health Act 2007 and its impact on Standards Committees.

## **3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS**

- 3.1** Under the Council's Corporate Plan for 2009/10, one of the corporate priorities is 'More Choice, Better Value'. A key objective within this priority is 'enhancing and further developing corporate governance'. The information in this report relates to the corporate governance arrangements around the Standards Committee and its operation.

## **4. RISK MANAGEMENT ISSUES**

- 4.1** It is important that Council's Constitution reflects the legal powers of the Standards Committee and that the Standards Committee is fully aware of its terms of reference and other aspects of its operation as set out in the constitution to avoid any potential for misunderstanding.
- 4.2** To ensure that the Council has robust corporate governance arrangements, the Constitution should be kept under review and amended/ updated periodically such that it continues to be a living document.

## **5. EQUALITIES AND DIVERSITY ISSUES**

- 5.1** There are no direct equalities or diversity issues arising from this report.

## **6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)**

- 6.1** There are no direct Use of Resources implications arising from this report.

## **7. LEGAL ISSUES**

- 7.1** The relevant legal issues are dealt with in the body of the report.

- 7.2 The terms of reference of the Standards Committee must reflect the powers enabled by the Local Government and Public Involvement in Health Act 2007, which came into force on 8<sup>th</sup> May 2008.

## **8. CONSTITUTIONAL POWERS**

- 8.1 Article 12, paragraph 12.03 (a) – one of the functions of the Monitoring Officer is to maintain an up-to-date version of the Constitution and ensure that it is widely available for consultation by members, staff and the public.
- 8.2 Part 3, Section 2 of the Constitution details the functions of the Special Committee (Constitution Review) which are “Proactively to review and keep under review all aspects of the Council’s Constitution so as to ensure that it remains current and fit for purpose, and to make recommendations thereon to the Council.

## **9. BACKGROUND INFORMATION**

- 9.1 At its meeting on 15 April 2008, the Council considered and agreed changes to the Constitution pursuant to recommendations of the Special Committee (Constitution Review). Many of these changes emerged from the annual review process but some were specific to the requirements of the Local Government and Public involvement in Health Act 2007 (‘the Act’).
- 9.2 This annual review of the terms of reference of the Standards Committee is an opportunity to consider if there are any consequential or further changes required to the Constitution.
- 9.3 Article 9 is the part of the Constitution which deals solely with the Standards Committee and contains the Committee’s terms of reference. Attached in **Appendix A** is Article 9 of the Constitution and the recommended changes to the terms of reference under Articles 9.03 and 9.04.
- 9.4 Changes affecting the Standards Committee are likely to come forward in the prospective Decentralisation and Localism Bill. However, the extent of those proposed changes will not be known until the Bill is published. Thereafter, the Bill will be subject to the normal Parliamentary approval processes and it is anticipated that it will be well into 2011 before the legislation is enacted and the timetable for implementation is determined. In the interim, it is still considered necessary for the amendments below to be agreed by the Special committee (Constitution Review).

### **SECTIONS FOR AMENDMENT**

- 9.5 **Article 9.03 (b)** One of the Independent Members will chair the Committee;

**Recommended change** - The Chairman and the Vice-Chairman shall be Independent Members.

- 9.6 **Article 9.04**

**Recommended change** - Add the following paragraphs:-

The Standards Committee will have the following roles and functions:

- (q) monitoring the operation of the Register of Members’ interests
- (r) responding (through the Monitoring Officer) to consultations on

proposed legislation and other matters within the remit of the Standards Committee and ethical governance.

- (s) monitoring and reviewing the Whistleblowing policy and any other procedures or policies associated with ethical governance including the overseeing of the preparation and production of the Council's Ethical Governance Assessment.
- (t) submitting to the Council an Annual Report on the work of the Committee.

9.7 **Article 9.04(l)**

**Recommended change - Add the following words in bold:-**

- (l) To make an initial assessment of any written complaint received alleging breach of the Local Code Of Conduct by any councillor or co-opted member and to either refer the matter to the Monitoring Officer for investigation **or other action**, refer the allegation to **Standards for England**, if appropriate, or, to decide that no action should be taken in respect of the complaint;

**10. LIST OF BACKGROUND PAPERS**

10.1 None

Legal: JEL

## APPENDIX A

### Proposed changes to Article 9 of the Constitution

#### Article 9 – The Standards Committee

*References: Sections 53-55 and Section 81(5) Local Government Act 2000  
Part 10, sections 183 to 203 of the Local Government and Public  
Involvement in Health Act 2007*

##### 9.01 Standards Committee

The Council Meeting will establish a Standards Committee.

##### 9.02 Composition

The Standards Committee will be composed of at least:-

- Six non-executive councillors, comprising two from each political group
- Seven persons who are not councillors, or officers, of the borough known as Independent Members.

##### 9.03 Independent Members

- (a) Independent Members will be entitled to vote at meetings;
- (b) One of the Independent Members will chair the Committee;

##### **Recommended change – to paragraph 9.03(b)**

The Chairman and the Vice-Chairman shall be Independent Members;

- (c) Independent Members of the Standards Committee serve for a fixed term of office of four years;
- (d) Those Independent Members appointed subsequent to May 2008, are limited to two consecutive full fixed terms of office;
- (e) If an Independent Member of the Standards Committee should resign or otherwise leave office before the end of their term, any replacement independent member would serve the remainder of that four year term of office;
- (f) Independent Members are re-appointed by Council on an annual basis during the four year term so that Council is able to take appropriate action in any circumstances where an Independent Member is not properly performing his or her duties;

- (g) Independent Members are appointed following public advertisement seeking interest placed prior to the expiry of a fixed term of office, or earlier if a vacancy should arise;
- (h) The Chief Executive and Director of Corporate Governance and Monitoring Officer carry out a selection process from those responding to public advertisement and make recommendations for appointment to the Council;

*[comment: 9.03 - (h) reflect the recommendations from the Special Committee (Constitution Review) from its meeting on 26 November 2007 agreed by the Council at its ordinary meeting on 29 January 2008]*

9.04 The Standards Committee will have the following roles and functions.

- (a) Promoting and maintaining high standards of conduct by councillors, faith and parent governor representatives and other co-opted members;
- (b) Assisting councillors and co-opted members to observe the Local Code of Conduct for Members;
- (c) Advising the Council on the adoption and revision of the Local Code of Conduct for Members;
- (d) Monitoring the operation of the Local Code of Conduct for Members;
- (e) Advising, training or arranging to train councillors and co-opted members on matters relating to the Local Code of Conduct for Members;
- (f) Considering and making recommendations to the Council, as necessary, on ethical issues affecting the Council as a whole;
- (g) Granting dispensations to councillors and co-opted members from requirements relating to interests set out in the Local Code of Conduct for Members.
- (h) Granting and supervising exemptions from political restriction in respect of any post by the current holder of that post;
- (i) Considering and giving direction to the Council on any requests that a post be politically restricted;
- (j) To be consulted by and respond to the Local Government Ombudsman if s/he believes that a complaint s/he is considering relates partly to a matter which may be of concern to the Committee;
- (k) To appoint a minimum of three Sub-Committees, each of no less than three persons and including at least two Independent Members, drawn from the Standards Committee to carry out any of the roles and functions set out in paragraphs [l] to [p] below.
- (l) To make an initial assessment of any written complaint received alleging breach of the Local Code Of Conduct by any councillor or co-opted member and to either refer the matter to the Monitoring Officer for investigation, refer the allegation to the Standards Board for England if appropriate, or, to decide that no action should be taken in respect of the complaint;

**Recommended change – to paragraph 9.04(l)**

To make an initial assessment of any written complaint received alleging breach of the Local Code Of Conduct by any councillor or co-opted member and to either refer the matter to the Monitoring Officer for investigation or other action,



refer the allegation to Standards for England, if appropriate, or, to decide that no action should be taken in respect of the complaint;

- (m) If a decision is made under (l) above that no action should be taken, to take reasonable steps to give notice in writing of the decision and the reasons for this to the person who made the allegation and to the councillor or co-opted member who is the subject of the allegation;
- (n) To have the discretion where the subject of the allegation is no longer a councillor or co-opted member of the London Borough of Barnet but is of another relevant authority (as defined by the Local Government and Public Involvement in Health Act 2007) to refer the allegation to the monitoring officer of that authority;
- (o) To carry out a review of a decision that no action be taken in respect of an allegation in circumstances where the person who made the allegation has subsequently made a written request for a review of that decision within thirty days of the date of the notice of the original decision;
- (p) Following an investigation and receipt of a report by the Monitoring Officer or Officer appointed by the Monitoring Officer to carry out such investigation and prepare such report into an alleged breach of the Code of Conduct, to make a decision as to whether or not, on a balance of probabilities, there has been a breach of the Code of Conduct and, if there has been, to consider whether it is appropriate to impose a sanction and, if so, to decide upon a suitable sanction, or, alternatively, whether it is appropriate to refer the case to the Adjudication Panel for England if the sanctions available to the Standards Committee are deemed insufficient;

**Recommended change – add paragraphs (q) – (t)**

- (q) monitoring the operation of the Register of Members' interests;
- (r) responding (through the Monitoring Officer) to consultations on proposed legislation and other matters within the remit of the Standards Committee and ethical governance;
- (s) monitoring and reviewing the Whistleblowing policy and any other procedures or policies associated with ethical governance including the overseeing of the preparation and production of the Council's Ethical Governance Assessment;
- (t) submitting to the Council an Annual Report on the work of the Committee.

## Enclosure 2

---

Meeting	Special Committee (Constitution Review)
Date	13 October 2010
<b>Subject</b>	<b>Local Democracy, Economic Development and Construction Act 2009 – Requirement for a Petition Scheme (including e-petitions)</b>
Report of	Director of Corporate Governance
Summary	This report sets out proposed amendments to the Constitution as required by the Local Democracy, Economic Development and Construction Act 2009 for a Petition Scheme (including e-petitions).

---

Officer Contributors	Jeff Lustig, Director of Corporate Governance (Monitoring Officer) Seye Aina, Senior Governance Advisor
Status (public or exempt)	Public
Wards affected	Not applicable
Enclosures	Appendix A – Communities & Local Government letter withdrawing statutory guidance on petitions Appendix B – Draft Model scheme Appendix C - Proposed amendments to the Constitution
For decision by	Special Committee (Constitution Review)
Function of	Council
Reason for urgency / exemption from call-in (if appropriate)	Not applicable

---

Contact for further information: Seye Aina, Senior Governance Advisor

020 8359 7156, [seye.aina@barnet.gov.uk](mailto:seye.aina@barnet.gov.uk)

## **1. RECOMMENDATIONS**

**1.1 That the Committee note the requirements of the Local Democracy, Economic Development and Construction Act 2009 ("the 2009 Act").**

**1.2 That the Committee agree to recommend to Council the introduction of a Petition Scheme which meets the minimum requirements of the 2009 Act on the basis set out in this report.**

**That the Committee agree to recommend to Council the adoption of the amendments to the Constitution set out in Appendix C of this report**

**1.3 That the Committee agree to refer the recommended changes to the Constitution to the next meeting of Council for approval.**

**1.4 That the committee request the Council that the Director of Corporate Governance be instructed to facilitate a process for publishing petitions electronically via the Council's website and provide reasons for refusal of an e-petition if it is deemed inappropriate for publishing on the website.**

## **2. RELEVANT PREVIOUS DECISIONS**

**2.1 None**

## **3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS**

**3.1. Under the Council's Corporate Plan for 2009/10 to 2013/14, one of the corporate priorities is 'More Choice, Better Value' and a key objective within this priority is 'enhancing and further developing corporate governance'.**

**3.2. Ensuring that the Constitution is kept under constant review and is updated in line with statutory developments and other changes ensures that the Council's corporate governance arrangements are robust.**

## **4. RISK MANAGEMENT ISSUES**

**4.1. Changes to the Constitution must be implemented in accordance with the statutory requirements otherwise the Secretary of State has residual powers to intervene.**

**4.2. There is therefore a reputational risk if required changes are not progressed in accordance with the statutory requirements and it could leave the Council liable to complaint and possible enforcement.**

## **5. EQUALITIES AND DIVERSITY ISSUES**

**5.1. There are no direct equality and diversity implications arising from this report.**

**5.2. The requirements of the 2009 Act are in line with the obligations of the Council in respect of equality and diversity and making the petition scheme accessible to more sectors of the community.**

## **6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)**

- 6.1 The initial work to create a petition scheme will be met from existing resources. The full costs of setting up an electronic petition scheme will need to be reviewed in the near future.

## **7 LEGAL ISSUES**

- 7.1 The relevant legal issues are contained in the body of the report.

## **8. CONSTITUTIONAL POWERS**

- 8.1. Part 3, Section 2 of the Constitution details the functions of the Special Committee (Constitution Review) which are “Proactively to review, and keep under review, all aspects of the Council’s Constitution so as to ensure that it remains current and fit for purpose, and to make recommendations thereon to the Council”.

8.2.

## **9. BACKGROUND INFORMATION**

- 9.1. On 12 November 2009, the **2009 Act** received Royal Assent. The 2009 Act makes provision for public involvement in the decisions of Council and aims to promote local understanding about Council functions and democratic arrangements.
- 9.2. Chapter 2 of the 2009 Act, requires local authorities to publicise and comply with a scheme for handling petitions and also provide a facility for electronic petitions (e-petitions) on their websites.
- 9.3. The Local Democracy, Economic Development and Construction Act 2009 (Commencement No. 3) Order 2010, required all local authorities to have arrangements in place for petitions by 15 June 2010 and the requirement for providing a facility for electronic petitions (e- petitions) comes into force on 15 December 2010.
- 9.4. The Council already has in place a scheme for handling paper petitions from residents. In order to meet the requirements of the 2009 Act, the Petition Scheme should define the minimum number of signatures for a petition to be dealt with and how the petitions are to be dealt with. The 2009 Act sets a threshold of signatures and provides three categories of petition:-
- Ordinary petitions
  - Petitions requiring debate
  - Petitions requiring an officer to account
- 9.5. The Department for Communities and Local Government (“DCLG”) publication ‘Listening to Communities Guidance on duty to respond to Petitions’ sets out guidance on requirements for petition schemes and provides a model scheme.
- 9.6. On 24 September 2010, DCLG withdrew the statutory guidance on the duty to

respond to the 2009 Act. The letter advising of this which was sent to local authority chief executives is attached at **Appendix A**.

- 9.7. The interpretation of this letter is for local authorities to be given discretion as to how they adopt the Petition Scheme but the expectation is that all authorities comply with the minimum statutory requirements.
- 9.8. A summary of those minimum statutory requirements are set out below:
  - anyone who lives works and studies in the Council's area, including those aged under 18, can sign or organise a petition and trigger a response;
  - a facility is provided by the Council which allows people to sign e-petitions electronically;
  - petitions must be acknowledged within a time period specified by the Council;
- 9.9. In responding to a petition, the following steps must be included in the scheme:
  - considering a petition at a meeting of the Council
  - holding an inquiry
  - holding a public meeting
  - commissioning research
  - a written response to the petition organiser setting out the Council's views on the request in the petition
  - referring the petition to the Overview & Scrutiny Committee;
  - petitions with a significant level of support trigger a debate at a Council Meeting.
  - Council's can determine this threshold locally but it must be no higher than 5% of the local population;
  - Petitions with a requisite level of support set by the Council, trigger a senior local government officer to give evidence at a meeting of the authority's overview and scrutiny committee.
  - Petition organisers can prompt a review of the Council's response if the response is felt to be inadequate.
  - a response which may include taking the action requested in the petition
- 9.10. In cases where petitions have a significant degree of support, the Local Authorities (Petitions) (England) Order 2009 states that the specified number for a petition requiring debate should be no greater than 5% of the total local authority population published by the Office of National Statistics (ONS).
- 9.11. The published ONS sub-national population projection for Barnet in 2010 is 345,800 (5% of this figure is 17,290).
- 9.12. The Department for Communities and Local Government (DCLG) guidance on petition schemes says that a petition which is vexatious, abusive, or inappropriate can be excluded. The test on which to consider the exclusion of

a petition is the same test that would be used for Freedom of Information (FOI) requests. The key question is whether the request is “likely to cause distress, disruption or irritation without any proper or justified cause”

### 9.13. Petition Thresholds

#### 9.13.1 The Threshold to require a response:

The DCLG guidance on thresholds gives an example based on a population of 150,000. The guidance suggests petitions which contain 1500 signatures will be debated by full Council and petitions which contain 750 signatures can call for a relevant officer to give evidence.

#### 9.13.3 The Threshold for ordinary petitions:

The DCLG's Model Scheme assumes that a Council will respond to every petition it receives, regardless of the number of signatures it attracts. The current arrangements in Barnet as set out in Section 4 (Public Participation) of the Council Procedure Rules of the Constitution direct the Democratic Services Manager to refer a petition or joint letter with 25 signatories to the next ordinary meeting of the relevant committee, sub-committee or forum. **It is recommended that this remains the threshold for ordinary petitions.**

#### 9.13.4 The Threshold to require evidence to be given from a relevant officer:

Petitions with a requisite level of support, set by the local authority, will trigger a requirement for a senior local government officer to give evidence at a meeting of an overview and scrutiny committee of the authority. **It is recommended that, for this purpose, the Council adopts a Petition signature threshold equal to 2% of the total local population figure published by the Office of National Statistics**

#### 9.13.5 The Threshold to require Council Debate:

Petitions with a requisite level of support will trigger a debate at a meeting of the full Council. Local authorities can determine this threshold themselves but it must not exceed 5 % of the total local population figure. **It is recommended that, for this purpose, the Council adopts a Petition signature threshold equal to 5% of the total local population figure published by the Office of National Statistics**

#### 9.14. In order to introduce a new Petition Scheme, the Constitution requires amendment. The areas of the Constitution identified for amendment are set out below:-

- Summary and Explanation
- Article 3 - Citizens and the Council
- Article 4 - The Full Council
- Article 6 - Overview and Scrutiny
- Part 4 - Council Procedure Rules
- Section 4 - Public Participation

#### 9.15. **It is recommended that the Council adopts a Petition Scheme based on**

**the draft model scheme issued by the DCLG (Appendix B).** The Scheme will meet the minimum statutory requirements of the 2009 Act.

9.16. It is therefore proposed that Council be recommended to:

- note the requirements of the 2009 Act
- agree to the introduction of a Petition Scheme which meets the minimum requirements of the 2009 Act.
- Adopt a Petition Scheme based on the draft model scheme issued by the DCLG to comply with the requirements of the 2009 Act.
- Adopt a petition signature threshold equal to 5% (17,290) of the total local population figure published by the Office of National Statistics for petitions to be debated at a full meeting of the Council.
- Adopt a petition signature threshold equal to 2% (6,916) of the total local population figure published by the Office of National Statistics for petitions which will require a relevant officer to be called to account before an Overview and Scrutiny Committee.
- Retain the threshold of 25 signatures for ordinary petitions as set out in Section 4 (Public Participation) of the Council Procedure Rules of the Constitution
- Adopt the amendments to the Constitution set out in Appendix C of this report in order to comply with the minimum requirements of the 2009 Act.
- Request that the Director of Corporate Governance be instructed to facilitate a process for publishing petitions electronically via the Council's website and provide reasons for refusal of an e-petition if it is deemed inappropriate for publishing on the website.

## **10. LIST OF BACKGROUND PAPERS**

10.1 Local Democracy, Economic Development and Construction Act 2009

10.2 Listening to Communities Guidance on duty to respond to Petitions

10.3 Local Democracy, Economic Development and Construction Act 2009 Explanatory Notes

10.4 The Local Authorities (Petitions) (England) Order 2009

Legal: JEL



**Claire Cooper**  
*Deputy Director, Community Action Division*

**Department for Communities and Local  
Government**  
5/B4  
Eland House  
Bressenden Place  
London SW1E 5DU

[www.communities.gov.uk](http://www.communities.gov.uk)

24 September 2010

Dear Chief Executive

### **Withdrawal of statutory guidance on petitions**

I am writing to you about the statutory guidance on the duty to respond to petitions. This guidance was issued by the previous administration under Section 19 of the Local Democracy, Economic Development and Construction Act 2009, to principal local authorities in England on 30<sup>th</sup> March 2010.

The Department for Communities and Local Government is withdrawing '*Listening to communities: Statutory guidance on the duty to respond to petitions*' with effect from 24 September (although the document will continue to be available for reference on the department's website). This means you will now have more discretion to decide how you approach petitions locally.

The petitions requirements in Chapter 2, Part 1 of the Local Democracy, Economic Development and Construction Act 2009 necessarily remain in force unless or until they are repealed by fresh primary legislation. This includes the requirement to provide a facility for people to make e-petitions which will come into effect on 15<sup>th</sup> December this year. Local authorities will be paid for the new burden through the area based grants process this financial year, with the first payment on 15<sup>th</sup> October.

Local authorities are legally bound to comply with the minimum requirements of all statutory duties. However in considering how you approach the petitions requirements, including in making arrangements to set up an e-petition facility, you will wish to consider current circumstances, and having regard to both the Government's commitment to remove unnecessary prescription for local authorities and the priority of cutting out all wasteful spending.

If you have any queries concerning this letter, please contact Carl Laughna on 0303 4442044, or e-mail on [carl.laughna@communities.gsi.gov.uk](mailto:carl.laughna@communities.gsi.gov.uk)

A handwritten signature in cursive script that reads "Claire Cooper".

**CLAIRE COOPER**



# Annex A

## Draft model scheme

*In order to demonstrate how the framework set out in the 2009 Act can translate in practice we have created a model scheme which local authorities can choose to adopt or adapt. The example below is based on an authority with a population of 150,000 and is the public facing information about their petition scheme published on their website. The model authority has chosen to respond to all the petitions it receives. Petitions which contain 1500 signatures will be debated by the full council and petitions which call for evidence from a senior officer, and have 750 signatures, will trigger that response. ['link' indicates where the council's webpage includes a link to related information]*

### Petitions

The council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. All petitions sent or presented to the council will receive an acknowledgement from the council within 14 days of receipt. This acknowledgement will set out what we plan to do with the petition.

Paper petitions can be sent to:

[insert address]

Or be created, signed and submitted online by following this link [link]

Petitions can also be presented to a meeting of the council. These meetings take place on a monthly basis, dates and times can be found here [link]. If you would like to present your petition to the council, or would like your councillor to present it on your behalf, please contact [insert name] on [insert phone number] at least 5 working days before the meeting and they will talk you through the process.

### What are the guidelines for submitting a petition?

Petitions submitted to the council must include

- a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the council to take
- the name and address and signature of any person supporting the petition

Petitions should be accompanied by contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition. The contact details of the petition organiser will not be placed on the website. If the petition does not identify a petition organiser, we will contact signatories to the petition to agree who should act as the petition organiser.

Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. If a petition does not follow the guidelines set out above, the council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

## What will the council do when it receives my petition?

An acknowledgement will be sent to the petition organiser within 14 days of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again. It will also be published on our website.

If we can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed. If the petition has enough signatures to trigger a council debate, or a senior officer giving evidence, then the acknowledgment will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take.

If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures apply. Further information on all these procedures and how you can express your views is available [here](#) [insert links]

We will not take action on any petition which we consider to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in our acknowledgement of the petition.

To ensure that people know what we are doing in response to the petitions we receive the details of all the petitions submitted to us will be published on our website, except in cases where this would be inappropriate. Whenever possible we will also publish all correspondence relating to the petition (all personal details will be removed). When you sign an e-petition you can elect to receive this information by email. We will not send you anything which is not relevant to the e-petition you have signed, unless you choose to receive other emails from us. [[link to account settings](#)]

# How will the council respond to petitions?

Our 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:

- taking the action requested in the petition
- considering the petition at a council meeting
- holding an inquiry into the matter
- undertaking research into the matter
- holding a public meeting
- holding a consultation
- holding a meeting with petitioners
- referring the petition for consideration by the council's overview and scrutiny committee\*
- calling a referendum
- writing to the petition organiser setting out our views about the request in the petition

\*Overview and scrutiny committees are committees of councillors who are responsible for scrutinising the work of the council – in other words, the overview and scrutiny committee has the power to hold the council's decision makers to account.

In addition to these steps, the council will consider all the specific actions it can potentially take on the issues highlighted in a petition. The table below gives some examples.

Petition subject	Appropriate steps
Alcohol related crime and disorder	If your petition is about crime or disorder linked to alcohol consumption, the council will, among other measures, consider the case for placing restrictions on public drinking in the area by establishing a designated public place order or, as a last resort, imposing an alcohol disorder zone. When an alcohol disorder zone is established the licensed premises in the area where alcohol related trouble is being caused are required to contribute to the costs of extra policing in that area. The council's response to your petition will set out the steps we intend to take and the reasons for taking this approach.

Petition subject	Appropriate steps
Anti-social behaviour (ASB)	<p>As the elected representatives of your local area, as social landlord and licensing authority, the council plays a significant role to play in tackling anti-social behaviour. The council, in conjunction with our partners in the local crime and disorder partnership have set out minimum service standards for responding to issues of anti-social behaviour, you can find more details about these standards here <a href="#">[insert link]</a>.</p> <p>When responding to petitions on ASB, we will consider in consultation with our local partners, all the options available to us including the wide range of powers and mechanisms we have to intervene as part of our role as social landlord and licensing authority. For example, we will work with the neighbourhood policing team in the affected area to identify what action might be taken, consider identifying a dedicated contact within the council to liaise with the community and neighbourhood partners on issues of ASB in the area in question and, where appropriate, we will alert the crime and disorder reduction partnership and crime and disorder overview and scrutiny committee to the issues highlighted in the petition.</p>
Under-performing schools	<p>We will consider, in consultation with local partners, all the options available to us when working with schools to secure their improvement. For example, on our behalf, the school improvement partner (SIP) will play a pivotal role, challenging and brokering support for poorly performing schools. Where a school is under performing we will consider whether it is appropriate in the circumstances to issue a warning notice outlining expectations and a timeframe for the school to improve its performance standards. Other measures available to us, where schools fail to comply with a warning notice or are in an Ofsted category of notice to improve (requiring significant improvement) or special measures including; appointing additional governors, establishing an interim executive board, removal of the school's delegated budgets, requiring the school to enter into a formal contract or partnership or, only if the school is in special measures, closure.</p>

Petition subject	Appropriate steps
Under-performing health services	We will work with local health partners to consider the matter raised in the petition including, where appropriate, exploring what role the Local Involvement Network (LINk) might have in reviewing and feeding back on the issue (the LINk is run by local individuals and community groups and independently supported – their role to find out what people want in terms of local health services, monitor those services and to use their powers to hold them to account). The health overview and scrutiny committee will also be alerted to the petition and where the matter is sufficiently or potentially serious, the issue will be referred to them to consider for review.

If your petition is about something over which the council has no direct control (for example the local railway or hospital) we will aim to make representations on behalf of the community to the relevant body. The council works with a large number of local partners [link to list of LAA partners] and where possible will work with these partners to respond to your petition. If we are not able to do this for any reason (for example if what the petition calls for conflicts with council policy), then we will set out the reasons for this to you. You can find more information on the services for which the council is responsible here [link].

If your petition is about something that a different council is responsible for we will give consideration to what the best method is for responding to it. It might consist of simply forwarding the petition to the other council, but could involve other steps. In any event we will always notify you of the action we have taken.

## Full council debates

If a petition contains more than 1,500 signatures it will be debated by the full council unless it is a petition asking for a senior council officer to give evidence at a public meeting. This means that the issue raised in the petition will be discussed at a meeting which all councillors can attend. The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by councillors for a maximum of 15 minutes. The council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

## Officer evidence

Your petition may ask for a senior council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, your petition may ask a senior council officer to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision.

If your petition contains at least 750 signatures, the relevant senior officer will give evidence at a public meeting of the council's overview and scrutiny committee. A list of the senior staff that can be called to give evidence can be found here [\[insert link\]](#). You should be aware that the overview and scrutiny committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition – for instance if the named officer has changed jobs. Committee members will ask the questions at this meeting, but you will be able to suggest questions to the chair of the committee by contacting [\[insert details\]](#) up to three working days before the meeting.

## E-petitions

The council welcomes e-petitions which are created and submitted through our website [\[link\]](#). E-petitions must follow the same guidelines as paper petitions [\[link to guidelines\]](#). The petition organiser will need to provide us with their name, postal address and email address. You will also need to decide how long you would like your petition to be open for signatures. Most petitions run for six months, but you can choose a shorter or longer timeframe, up to a maximum of 12 months.

When you create an e-petition, it may take five working days before it is published online. This is because we have to check that the content of your petition is suitable before it is made available for signature.

If we feel we cannot publish your petition for some reason, we will contact you within this time to explain. You will be able to change and resubmit your petition if you wish. If you do not do this within 14 days, a summary of the petition and the reason why it has not been accepted will be published under the 'rejected petitions' section of the website.

When an e-petition has closed for signature, it will automatically be submitted to [\[insert details\]](#). In the same way as a paper petition, you will receive an acknowledgement within 14 days. If you would like to present your e-petition to a meeting of the council, please contact [\[insert details\]](#) (details above) within five days of the petition closing.

A petition acknowledgement and response will be emailed to everyone who has signed the e-petition and elected to receive this information. The acknowledgement and response will also be published on this website.



## How do I 'sign' an e-petition?

You can see all the e-petitions currently available for signature here [insert link].

When you sign an e-petition you will be asked to provide your name, your postcode and a valid email address. When you have submitted this information you will be sent an email to the email address you have provided. This email will include a link which you must click on in order to confirm the email address is valid. Once this step is complete your 'signature' will be added to the petition. People visiting the e-petition will be able to see your name in the list of those who have signed it but your contact details will not be visible.

## What can I do if I feel my petition has not been dealt with properly?

If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that the council's overview and scrutiny committee review the steps that the council has taken in response to your petition.

The committee will consider your request within 30 days of receiving it. Should the committee determine we have not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the council executive and arranging for the matter to be considered at a meeting of the full council.

Once the appeal has been considered the petition organiser will be informed of the results within seven days. The results of the review will also be published on our website.

### Consultation questions – Model scheme:

#### **Question 6:**

Do you think the model scheme is clearly expressed and easy for people to use? Please explain your reasons.

#### **Question 7:**

Do you think the standards set out in the model scheme are achievable and appropriate to citizens' expectations?

#### **Question 8:**

Do you think there is anything that should be added to the model scheme?

# Annex B

## Draft petitions order



## **APPENDIX C**

To introduce an a Petition Scheme pursuant to the Local Democracy, Economic Development and Construction Act 2009, the following changes to the Constitution are recommended.

### **1. SUMMARY AND EXPLANATION**

#### **Citizens' Rights**

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes.

Where members of the public use specific council services, for example as a parent of a school pupil or as a council tenant, they have additional rights. These are not covered in this Constitution.

Citizens have the right to:

- to be treated equally
- vote at local elections if they are registered
- contact their local councillor about any matters of concern to them
- obtain a copy of the Constitution
- attend meetings of the Council and its committees except where, for example, personal or confidential matters are being discussed
- petition to request a referendum on a mayoral form of executive
- speak at a residents forum on any aspect of Council services and to comment on Council plans and proposals before decisions are made
- contribute to investigations by the Overview and Scrutiny committees
- ask a question and speak at most meetings
- find out, from the Executive's forward plan, what major decisions are to be discussed by the Executive or decided by the Executive or officers, and when
- attend meetings of the Executive where key decisions are being discussed or decided
- see reports and background papers, and any record of decisions made by the Council and Executive
- complain to the Council if:
  - the Council has not done something it promised to do
  - the Council has treated anyone unfairly or impolitely
  - the Council has not provided a service within the time set
  - another organisation providing services on behalf of the Council has not done so properly
  - there is any other justifiable complaint

A leaflet with further information about complaints is available from Barnet libraries and Barnet On-line.

- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process
- complain to the Council's Standards Committee if they have evidence which they think shows that a councillor has not followed the Local Code of Conduct for Members; and
- inspect the Council's accounts and make their views known to the external auditor.

**Recommended change:** Add an additional bullet point to reflect the petition scheme after the bullet point below:

- petition to request a referendum on a mayoral form of executive

**add a new bullet point**

- submit a petition to the Council if they live, work or study in the authority's area and are concerned about a Council service or a decision that is about to be made.

## 2. ARTICLE 3 – CITIZENS AND THE COUNCIL

### 3.01 Citizens' rights

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Council Procedure Rules in Part 3 and Access to Information Rules in Part 4 of this Constitution:

- (a) **Voting and petitions.** Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.

**Recommended change:** Replace 3.01(a) above with a new paragraph 3.01(a) (i) and (ii)

3.01(a)

(i) **Voting and petitions.** Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.

(ii) **Petition scheme.** Citizens who live, work or study in the authority's area and are concerned about a Council service or a decision that is about to be made, may send the Council a petition which shall be considered and responded to in accordance with the Petition Scheme.

### 3. ARTICLE 4 – THE FULL COUNCIL

#### 4.02 Functions of the full Council

Only the Council will exercise the following functions:

**Recommended change:** a new paragraph 4.02 (O) to reflect the Petition Scheme

in accordance with the Petition Scheme debate on any petitions containing the requisite number of signatures.

### 4. ARTICLE 6 – OVERVIEW AND SCRUTINY

#### 6.03 Specific functions

(a) **Policy development and review.** Overview and scrutiny committees may:

- (i) assist the Council and the executive in the development of its budget and policy framework by in-depth analysis of policy issues;
- (ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
- (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (iv) question members of the executive and/or committees and chief officers about their views on issues and proposals affecting the area;

(v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working;

**Recommended change:** Add a new paragraph to : Article 6, sub-section 6.03 (a) (vi) and a new paragraph 6.03 (f)

6.03 (a) (vi) question a relevant officer where a petition has been submitted in accordance with the Petition Scheme and conditions set down in paragraph 3.10 (a)–(c) in Section 4 (Public Participation) of the Council Procedure Rules.

6.03 (f) A relevant officer for the purposes of Article 6.03 (a) (vi) is any one of the Chief Officers designated as such by Article 12.01 (b) of the Constitution.

## **5. SECTION 1 – THE COUNCIL**

### **3. Ordinary meetings**

- 3.1 Unless the Council or Mayor decides otherwise, ordinary meetings of the Council shall be held at 7pm at the Town Hall, The Burroughs, Hendon in accordance with a programme decided at the Council's annual meeting.
- 3.2 Ordinary meetings will deal with the following matters except for the meeting that deals with the approval of the budget and council tax to which only Parts 1 and 5 will apply.

#### **Part 1 - Statutory formalities/Announcements (15 minutes)**

- 1 Elect a member to preside if the Mayor is absent
- 2 Prayer
- 3 Minutes of last meeting
- 4 Official announcements
- 5 Declarations of interest
- 6 Any business remaining from last meeting

#### **Part 2 - Question Time (30 minutes or until 7.45 p.m. whichever is longer)**

7. Questions to the Leader and Cabinet

### **Part 3 - Members' Motions (60 minutes)**

8. Motions in the order in which notice has been given

***(Break – 15 minutes)***

### **Part 5 – Statutory Council Business (40 Minutes)**

**Recommended change:** a new part 11

**11. Petitions for Debate (20 minutes).** A petition organiser (up to 5 minutes) and Members responding (up to 15 minutes)

**Renumber subsequent parts**

## **6. SECTION 4 – PUBLIC PARTICIPATION**

Petitions, Question Time and Public Comments – Rules

Explanatory Note – petitions, public comments and questions

2. Petitions – If a group of residents are concerned about a Council service or a decision that is about to be made, they may send the Council a petition.

**Recommended change:** Delete paragraph 2 of the Explanatory Note above and replace with:

**2. Petitions** - If persons who live, work or study in the authority's area are concerned about a Council service or a decision that is about to be made, they may send the Council a petition. All Petitions submitted to the Council shall be considered and responded to in accordance with the Petition Scheme set out in section 3 of the Council Procedure Rules and pursuant to the Local Democracy, Economic Development and Construction Act 2009.

3. Petitions and joint letters and procedure

- 3.1 Any petition or joint letter signed by 25 people or more who live or have businesses in the borough will be submitted to the next meeting of the committee or sub-committee or forum within whose terms of reference it falls, together with an officer's report.
- 3.2 Petitions or joint letters must be delivered to the Democratic Services Manager. If a member or officer of the Council receives a petition or joint letter, he or she must pass it immediately to the Democratic Services Manager. The Democratic Services Manager will arrange for the relevant Chief Officer to report the petition or joint letter to the next ordinary meeting of the relevant committee, sub-committee or forum.
- 3.3 The Democratic Services Manager shall notify the lead petitioner of the method by which the petition will be dealt with,

**Recommended change:** Delete paragraphs 3.1, 3.2 and 3.3 above and replace with paragraphs 3.1 - 3.17

#### **Petition Scheme**

3.1 Petitions submitted to the Council shall be accepted and responded to in accordance with the Petition Scheme set out in the Council Procedure Rules. The Democratic Services Manager or a designated officer shall be responsible for the administration of the Petition Scheme.

3.2 A petition shall be accepted if it:

- (a) requests for action to be taken or ceased
- (b) contains the signatures and addresses of 25 or more persons who live, work or study in the borough
- (c) relates to a function for which the Council is responsible
- (d) relates to an improvement in the economic, social or environmental wellbeing of the authority's area to which any of its partner authorities can contribute
- (e) is received in paper form or as an electronic petition submitted using the authority's e-petition facility

3.3 A petition shall not be accepted if it:

- (a) is vexatious or abusive
- (b) relates to a planning or licensing application, appeal or review
- (c) is a petition made under any other enactment or statutory provision
- (d) is an electronic petition and is not submitted using the authority's e-petition facility

3.4 Any petition or joint letter with signed signatures and addresses of 25 or more persons who live, work or study in the borough will be submitted to the next meeting of the committee or sub-committee or forum within whose terms of reference it falls, together with an officer's report.

3.5 A petition accepted shall be acknowledged in writing within 10 working days and the petition organiser informed of the action the Council will take to respond to it and the reasons for taking that action.

#### **A Petition for Debate**

3.6 A petition containing **17, 290 or more signatures** of persons who live, work or study in the borough duly received and accepted as valid by the Democratic Services Manager shall be debated at a full meeting of the Council:

(a) the petition will be placed on the agenda for the next available Council meeting provided that (i) it has been received no later than 15 working days prior to the date of the meeting and if received after that date it will be placed on the agenda of the next available meeting and (ii) no other petition has already been accepted to be placed on the agenda for the meeting in which circumstances it will be placed on the agenda for the next available meeting.

(b) the petition organiser, or a member of the Council on their behalf, shall be entitled to address the Council for up **to 5 minutes** on the petition.

(c) the Council will debate the petition for up **to 15 minutes**.

3.7 in disposing of the petition the Council may decide one of the following courses of action:

to take the action requested by the petition

not to take action on the petition

to refer it to a Committee of the Council to conduct an investigation or take other action

to refer it to the Executive if it is a matter within their remit

to refer it to another public body  
to take any other action they consider to be appropriate

3.8 a written response shall be sent to the petition organiser within **10 working days** of the meeting setting out what the Council has decided.

3.9 The response of Council will be published on the authority's website.

#### **Petition to call an officer to account**

3.10 A petition shall call an officer to account if:

- (a) the petition contains **6,916 or more signatures** of persons who live, work or study in the borough.
- (b) the petition requests for a relevant officer to give evidence at a public meeting of the authority.
- (c) the petition gives grounds for the request which relate to the discharge of functions for which the officer is responsible.

3.11 If the conditions in 3.10 (a)–(c) are met in disposing of the petition a relevant officer shall attend before an Overview and Scrutiny Committee to answer questions and give account to the Committee in respect of the matters raised by the petition.

#### **Review of a Petition**

3.13 If the conditions in are met in disposing of the petition a relevant officer shall attend before the Business Management Overview and Scrutiny Sub-Committee to review the adequacy of the steps taken or proposed to be taken in response to the petition.

3.14 If the organiser of a petition believes that the petition has not been dealt with appropriately or responded to satisfactorily, the petition organiser shall have the right to request that the petition be referred to the Business Management Overview and Scrutiny Sub-Committee.

3.15 The Business Management Overview and Sub-Scrutiny Committee shall deal with the request at the next available meeting.

3.16 The petition organiser shall be informed of the results of the review within



10 working days of the decision.

3.17 The Council will publish the results of the review on the authority's website unless it considers that in all the circumstances it would be inappropriate to do so.