

Chief Executive's Department
Civic Centre
HARTLEPOOL

28th May, 2010

The Mayor (Stuart Drummond)

Councillors

Councillors Aiken, C Akers-Belcher, S Akers-Belcher, Atkinson, Barday, Barker, Brash, R W Cook, Cranney, Fleet, Fleming, Flintoff, Gibbon, Griffin, Hall, Hargreaves, Hill, Ingham, Jackson, James, Laffey, Lauderdale, Lawton, A E Lilley, G Lilley, London, Maness, A Marshall, J Marshall, J W Marshall, McKenna, Dr. Morris, Payne, Plant, Preece, Richardson, Rogan, Shaw, Simmons, Sutheran, Thomas, H Thompson, P Thompson, Turner, Wells, Worthy and Wright.

Madam or Sir,

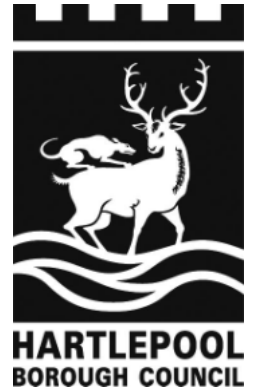
You are hereby summoned to attend an extraordinary meeting of the COUNCIL to be held on THURSDAY, 10th June, 2010 at 7.00 p.m. in the Civic Centre, Hartlepool to consider the subjects set out in the attached agenda.

Yours faithfully

P Walker
Chief Executive

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EXTRAORDINARY COUNCIL AGENDA



Thursday 10 June 2010

at 7.00 pm

in the Council Chamber

1. To receive apologies from absent members.
2. To receive any declarations of interest from Members.
3. To consider a report from the Constitution Committee:
Local Democracy, Economic Development and Construction Act 2009 –
Petition Scheme

EXTRAORDINARY COUNCIL

10 June 2010



Report of: CONSTITUTION COMMITTEE

Subject: LOCAL DEMOCRACY, ECONOMIC DEVELOPMENT
AND CONSTRUCTION ACT, 2009 – PETITION
SCHEME

1. PURPOSE OF REPORT

- 1.1 This report follows that previously submitted to the Constitution Working Group and to this Committee on the main provisions introduced through the Local Democracy, Economic Development and Construction Act, 2009 (the 'Act'). Amongst those provisions, was the requirement for a principle local authority to adopt a petition scheme, with an indication that such a scheme could become effective from 1st April, 2010. However, the Department for Communities and Local Government indicated that an authority would be obliged to operate a scheme from 15th June, 2010 with the operation of an "e-petition" scheme from 15th December, 2010. This report sets out the legal requirements for the Council under the provisions of the Act and further appends a draft petition scheme.

2. BACKGROUND

- 2.1 Part 1 Chapter 2 of the Act imposes a new statutory duty upon local authorities to operate a scheme for the handling of petitions which must be approved by full Council and published on the Council's website. Under the petition scheme anyone who lives, works or studies in the Borough (including under 18s) can sign or organise a petition which is intended to trigger a response from the Council. Among the possible steps which the Council may choose to take in response to a petition, must be included the following;

- Taking the action requested
- Considering the petition through debate at full Council
- Holding an inquiry
- Holding a public meeting
- Commissioning research
- A written response setting out the Council's view on the issue

- Reference of the matter for the purposes of Overview and Scrutiny

2.2 Petition organisers who are dissatisfied with the Council's response can ask for a review. Where petitions have a significant degree of support this will trigger a Council debate. Although, it will be for the Council to determine the number of signatures required to trigger a Council debate the guidance suggests that this number should not exceed 5% of the Borough's population. According to the Office for National Statistics with a population estimated at 91,400, this would entail 4,570 signatures. Members will note that the draft scheme as attached has included a figure well below this threshold. Local authorities will also have to provide in their petition scheme a requirement that Senior Officers will give evidence through the Overview and Scrutiny process. This will ordinarily be in public unless confidential information would be disclosed, in such a case, the meeting will take place in private.

3. APPLICATION OF A PETITION SCHEME

3.1 The petition scheme will apply to a petition made to the Council which;

- asks for action to be taken or ceased
- signed by the requisite number of individuals
- is not made under any other enactment
- if electronic, uses the Council's electronic facilities

3.2 A petition must relate to a relevant matter, namely, a Council function or an improvement in the economic, social or environmental wellbeing of the area to which a partner authority can contribute. Planning and licensing decisions are to be excluded from a petition scheme, as are matters where there is another appeal mechanism. However, such matters will not be excluded if the petition relates to a systematic failure in service provision. In determining whether to allow a petition, the Council can take into account data protection issues and such matters as equalities law, libel and whether a petition is vexatious, abusive or otherwise inappropriate. If the Council refuses to allow the petition facility to be used, it must provide reasons. In deciding whether a petition is vexatious or abusive, the Council should base their decision on the same tests that will be used for freedom of information requests, namely *"is the request likely to cause distress, disruption or irritation without any proper or justified cause"*. The test must be applied to the topic and not the petition organiser. The guidance also suggests that a petition may be inappropriate where legal proceedings are possible or the petition relates to an individual member of the community.

3.3 The duty to provide an e-petition facility, which will become operational later in the year, will require the Council to create a facility for such e-petitions and to incorporate the same, into its online information. A signature will only count if the name and address are given and if the petition is electronic, with such means of authentication as the Council requires. The model scheme

suggests that it might be by name, post code and individual e-mail address. Petitions must also be acknowledged within a specified time limit with an indication of what the Council has done or intends to do in respect thereof. Identification must be sent to the petition organiser and must be posted on the Council's website.

- 3.4 An organiser who is dissatisfied with the Council's response to a petition has the right to request a review. Accordingly, they may request Scrutiny to review the adequacy of the steps taken and action proposed. The outcome of such a review must be published on the Council's website. If the view is taken that the Council's response is inadequate, having regard to the range of possible responses and matters of proportionality, they can use their existing powers to conduct their own review of the issue pursuant to the Local Government Act, 2000. If Scrutiny are 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 for the purposes of a review. The outcome of that review will be communicated to the petition organiser and should appear on the Council's website.
- 3.5 It is the Government's intention that authorities '*should approach their petition scheme from the starting point of responding to all petitions they receive.*' Other than where a specified level of support is required to either trigger a debate of Council or for a senior local government officer to give evidence (see below), the model scheme as attached, does not indicate a specified number of signatories to initiate any action. However, it has been indicated that some authorities intend to specify a modest number of signatories for an 'ordinary' petition to be activated. Members will need to determine whether they wish to specify a number of required signatories, or not. In addition, the Constitution will need to reflect the operation of the petition scheme both within the 'Summary and Explanation' (para 13 of relevance) to the Constitution and under Article 3 'Local People and the Council' ('voting and petitions').

4. PETITIONS REQUIRING DEBATE

- 4.1 The Act requires that the scheme allow for petitions requiring a debate at Council provided it has sufficient signatures (threshold of 5% of the population according to Office of National Statistics figures). The possible responses must include or comprise referral to a meeting of the full Council. This does not apply to a petition to hold an Officer to account (see further below). Again, the petition organiser must be told of the arrangements and notice of the debate must be placed on the Council's website.

4. CALLING OFFICERS TO ACCOUNT

- 4.1 A petition may be submitted requiring an Officer to be called to give account. Again, the Council is required to set a threshold for the number of signatures for such a petition. Again, the model petition as annexed herewith provides

a suitable threshold in conjunction with the draft statutory guidance. The grounds in the petition must relate to the Officer's duties and not be personal. Officers who can be called to account in this way are those set out in the scheme and must include;

- (i) The Head of Paid Service (Chief Executive Officer)
Statutory Chief Officers;
 - Director of Child and Adult Services
 - Section 151 Officer (Chief Finance Officer)
 - Section 5 Officer (Monitoring Officer)
- (ii) Non-statutory Chief Officers, for example
 - Anyone reporting directly to the Head of Paid Service or to the Council or a Committee of it.
 - Those reporting directly (or indirectly) for most or all of their duties to a statutory or non-statutory Chief Officer.

- 4.2 If such a petition is received, the scheme must provide for the attendance by the Officer at the Scrutiny Committee to ask questions and the petitioner to receive any report/recommendations made by the Committee. Scrutiny may call another Officer if they think it more appropriate. Such meetings will ordinarily be in public and the organiser of the petition is to be invited unless confidential information would be revealed. Notification of the meeting and any report or recommendations arising should be communicated to the petition organiser and placed on the Council's website.

6. SUMMARY AND CONCLUSIONS

- 6.1 The Local Democracy, Economic Development and Construction Act, 2009, provides for a duty upon principle local authorities to respond to petitions. The duty obliges principle local authorities to draw up a petition scheme, which allows local people a right to a public response if they are signatories to a petition. Those petitions with a significant level of support will be able to "trigger" a debate of full Council and petitions will also be able to call for a senior member of the Council's staff to attend a meeting of a Committee discharging the overview and scrutiny function, to answer questions about how they are delivering public services. Petition organisers will have a right to request a review of the Council's response to their petition, should they feel the response is inadequate. Ultimately, local authorities will also be required to provide a facility relating to "e petitions".
- 6.2 In the Department of Communities and Local Government's document "Listening to Communities: Consultation on Draft Statutory Guidance on Duty to Respond to Petitions" (December, 2009) it is indicated that the Government believes that local authorities should approach their petition scheme from the starting point of responding to all the petitions they receive. *'Petitions are an important tool for local people to raise concerns with their locally elected representatives and we expect petitions to trigger action where appropriate'*. Attached herewith for consideration of the Working

Group/Committee is a model scheme based upon that provided through the Department for Communities and Local Government. The model scheme therefore comprises the “four key areas” comprising; under-performing schools, alcohol related crime and disorder, under performing health services and anti-social behaviour. It is envisaged that such schemes will provide “a high level of flexibility” for local authorities in how they approach this particular duty. It will therefore be appropriate for the petition scheme to be constantly kept under review, to ensure that the same represents local circumstances and remains accessible to all.

7. RECOMMENDATION

- 7.1 That Council adopt the model petition scheme as attached.

HARTLEPOOL BOROUGH COUNCIL

Draft Petition Scheme

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 Democratic Services Team, Civic Centre, Victoria Road, Hartlepool TS24 8AY

Or be created, signed and submitted online by following this link *[link to be inserted following development of system – system to be in place December 2010]*

Petitions can also be presented to a meeting of the full Council. These meetings take place on dates and times that can be found here *[link to be inserted following approval of Council meeting dates]*. If you would like to present your petition to the Council, or would like your local Councillor to present it on your behalf, please contact Democratic Services Team on 01429 523013 at least 10 working days before the meeting and they will assist you through that 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 acknowledgement 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.

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.

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 full 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 Scrutiny Co-ordinating Committee who have responsibility for scrutinising the work of the Council in conjunction with the five Scrutiny Forums:
 - Children's Services Scrutiny Forum
 - Regeneration Planning Services Forum
 - Adult & Community Services Scrutiny Forum
 - Health Scrutiny Forum
 - Neighbourhood Services Scrutiny Forum
- calling a referendum
- writing to the petition organiser setting out our views about the request in the petition

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.
Anti-social behaviour (ASB)	<p>As the elected representatives of your local area, 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 [insert link].</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 licensing authority. For example, we will work with the partner agencies in the affected area to identify what action might be taken, consider identifying a dedicated contact within the Council to liaise on issues of ASB in the area in question.</p>

Petition subject	Appropriate steps
Under-performing schools	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.
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).

If your petition is about something over which the Council has no direct control 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 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 [[Hartlepool Borough Council Homepage](#)].

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 Scrutiny Committee. A list of the senior staff that can be called to give evidence can be found here [HBC constitution\Constitution 2009-2010\Sections of Constitution\Man Structure Flow Chart.doc](#). You should be aware that the 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 Democratic Services Team on Ext 3013 up to three working days before the meeting.

E-petitions (under development)

The Council welcomes e-petitions which will be created and submitted through our website [*link to be inserted following development of system*]. E-petitions must follow the same guidelines as paper petitions. 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 Democratic Services Team. 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 Democratic Services Team within ten 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 acknowledgment 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 [*link to be inserted following development of system*].

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. The e-petition signature process will also include a mechanism to prevent robot signatures.

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 Scrutiny Co-ordinating 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's 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.