



Committee report

Committee	FULL COUNCIL
Date	16 JUNE 2010
Title	PETITION SCHEME AND OTHER CONSTITUTIONAL AMENDMENTS
Report Author	DIRECTOR OF CORPORATE SERVICES AND MONITORING OFFICER

BACKGROUND

1. This report deals with two constitutional matters – a new petition scheme and proposed amendments to the Employment Committee terms of reference.
2. The Local Democracy, Economic Development & Construction Act 2009 requires every local authority to adopt a “Petition Scheme” which sets out how it will handle petitions. These changes come into effect on 15 June 2010. The Petition Scheme needs to be approved by full Council. The Government has issued statutory guidance, which includes a model petition scheme.
3. The Constitution currently states that, to be considered by full Council, petitions must be signed by at least 500 electors but it does not cover petitions with fewer signatures.
4. Important elements of the new requirements include:
 - Petition signatories are not limited to those on the electoral roll – they can be signed by anyone who lives, works or studies in the local authority area, including under 18s.
 - Petitions with a significant level of support will trigger a debate of full council. Councils should determine their own threshold but it must be no higher than 5% of the local population (based on the Office of National Statistics’ population estimates).
 - Petitions with a requisite level of support (threshold to be set by councils) will trigger a senior officer to give evidence to an Overview & Scrutiny Committee meeting.
5. The Employment Committee is currently able to set up sub committees to deal with the appointment of officers at Head of Service level and above, but the terms of reference do not take into account the need for flexibility when appointing to a jointly funded post. This report seeks to amend the Employment Committee terms of reference to provide for this flexibility.

PROPOSED PETITION SCHEME

6. A draft Petition Scheme can be found at Appendix A. This contains elements of the model scheme, with some additional clauses to aid clarity and provide simplicity in the practical operation of the scheme.
7. The statutory guidance suggests that authorities should set the number of signatures required at levels which encourage rather than discourage petitions. The thresholds in the draft scheme attached are set at just under 2% of the population.
8. An e-petition facility is currently being developed in-house and when ready the Petition Scheme will need to be revised to accommodate this by the statutory deadline of 15 December 2010.

EMPLOYMENT COMMITTEE TERMS OF REFERENCE

9. It is becoming increasingly apparent that as Island public sector partner organisations move towards integrated working, there is a growing need for flexibility in the Council's constitutional arrangements for the establishment of committees which deal with the appointment of officers at Head of Service level and above. Under the current terms of reference for the Employment Committee, approved on 8 March 2010, there are delegated powers to agree the recruitment to posts at head of service or above and where such agreement is given, a politically proportionate sub committee of five members can be established. Where such posts are determined to be jointly funded between the Council and a partner organisation, it is necessary to ensure that there is the facility for that partner organisation to fully contribute to the recruitment decision making process.
10. The Council is currently recruiting to a Head of Service post which is jointly funded by the Isle of Wight NHS PCT. Therefore a change to the Employment Committee's terms of reference is now necessary to allow health partners (and other potential future partners) an equal role in the recruitment decision making process.

CONSTITUTION

11. The Constitution will require amendment to take account of the new petition requirements as follows:
 - Article 4 – The Full Council: Paragraph 5 (Petitions – page 29) to be revised to read “As described in the Petition Scheme (see page...) petitions can be presented to meetings of Full Council and those containing more than 2,500 signatures will be debated by Full Council.”
 - Article 5 – Overview and Scrutiny Committee (page 31): New responsibility “(8) To consider evidence from directors, heads of service or their nominated representative in respect of petitions containing more than 2,500 signatures as described in the Petition Scheme (see page...)”
 - Procedure rule no. 1 – Cabinet, Committees and Scrutiny Panel meetings - paragraph 2 (page 93): New item “(e) the Overview and Scrutiny

Committee will consider evidence from directors, heads of service or their nominated representative in respect of petitions containing more than 2,500 signatures as described in the Petition Scheme (see page ...).”

12. The Petition Scheme will also need to be added to the end of the Constitution.
13. To provide for public sector partner organisations to fully contribute to the decision making process for the recruitment to jointly funded posts the following addition to the Employment Committee Terms of Reference is required:
 - In the event of a post at head of service level or above being determined as a jointly funded post between the Council and a partner organisation to agree to the recruitment and, where agreement is given, the committee can agree the make up of the sub committee which may include partners from other organisations.

FINANCIAL / BUDGET IMPLICATIONS

14. The costs of dealing with petitions under the draft Petition Scheme, if adopted, cannot be ascertained in advance, as they will depend on the number of petitions received. There is a small officer cost involved in setting up the Petitions Website. The Council currently receives very few petitions each year. If this trend continues it is anticipated that all costs will be met from existing budgets.
15. There are no additional costs associated with the proposed change to the employment committee terms of reference in respect of the establishment of sub committees for recruitment to posts that are determined as jointly funded between partner organisations.

LEGAL IMPLICATIONS

16. The requirement to adopt and publish a petition scheme is set out in the Local Democracy, Economic Development & Construction Act 2009. The constitution therefore requires amendment as a result of this legislative change.
17. The scheme should be published online and in such other manner to bring it to the public's attention.
18. The Council is required to have regard to the statutory guidance when drafting its scheme.
19. Once published the Council are required to comply with the terms of the petition scheme, although it can amend the scheme in future as it sees fit.
20. The proposed change to the Employment Committee terms of reference is made in accordance with the council's constitution and the requirements in the Local Government Act 2000 and related legislation.

EQUALITY AND DIVERSITY

21. The new rules on petitions are intended to enable public access to the decision making processes of the authority and as such contribute towards open and

inclusive governance. The Petition Scheme will allow all those who live, work or study on the Island (including under 18s) to take part in a petition.

22. There are no direct equality and diversity issues arising from the proposed change to the employment committee terms of reference.

OPTIONS

23. Option 1 - that Council approve the Petition Scheme and the following amendments to the Constitution:

- Article 4 – The Full Council: Paragraph 5 (Petitions – page 29) to be revised to read “As described in the Petition Scheme (see page...) petitions can be presented to meetings of Full Council and those containing more than 2,500 signatures will be debated by Full Council.”
- Article 5 – Overview & Scrutiny Committee (page 31): New responsibility “(8) To consider evidence from directors, heads of service or their nominated representative in respect of petitions containing more than 2,500 signatures as described in the Petition Scheme (see page ...).”
- Procedure rule no. 1 – Cabinet, Committees and Scrutiny Panel meetings - paragraph 2 (p.93): New item “(e) the Overview & Scrutiny Committee will consider evidence from directors, heads of service or their nominated representative in respect of petitions containing more than 2,500 signatures as described in the Petition Scheme (see page ...).”
- Inclusion of the Petition Scheme at the end of the Constitution.

24. Option 2 – not to approve the Petition Scheme and amendments to the Constitution.

25. Option 3 – to approve with amendments the Petition Scheme and amendments to the Constitution.

26. Option 4 - That Council approve the proposed amendment to the employment committee’s terms of reference to include:

- In the event of a post at head of service level or above being determined as a jointly funded post between the Council and a partner organisation to agree to the recruitment and, where agreement is given, the committee can agree the make up of the sub committee which may include partners from other organisations.

27. Option 5 – not to approve the proposed amendment to the employment committee’s terms of reference.

28. Option 6 – to approve alternative amendments to the employment committee terms of reference.

RISK MANAGEMENT

29. The Council is required by law to approve a Petition Scheme and failure to do so will leave it in breach of legislation.
30. The recommendation to amend the terms of reference for the employment committee is intended to improve the flexibility in the appointment process for senior officers where establishment posts are designated as being jointly funded between partner organisations and as such serve to facilitate greater opportunity for integrated working. Should the recommendation not be accepted it could create a barrier to future joint appointments.

EVALUATION

31. The requirement to adopt and publish a Petition Scheme is a legal requirement.
32. Amending the terms of reference of the employment committee as recommended will further enhance the position of the council in transforming the way in which the efficiency and effectiveness of future working methods can be achieved.

RECOMMENDATION

Option 1 - That Council approve the petition scheme and the following amendments to the Constitution:

- Article 4 – The Full Council: Paragraph 5 (Petitions – page 29) to be revised to read “As described in the Petition Scheme (see page...) petitions can be presented to meetings of Full Council and those containing more than 2,500 signatures will be debated by Full Council.”
- Article 5 – Overview & Scrutiny Committee (page 31): New responsibility “(8) To consider evidence from directors, heads of service or their nominated representative in respect of petitions containing more than 2,500 signatures as described in the Petition Scheme (see page ...).”
- Procedure rule no. 1 – Cabinet, Committees and Scrutiny Panel meetings - paragraph 2 (p.93): New item “(e) the Overview & Scrutiny Committee will consider evidence from directors, heads of service or their nominated representative in respect of petitions containing more than 2,500 signatures as described in the Petition Scheme (see page ...).”
- Inclusion of the Petition Scheme at the end of the Constitution.

Option 4 - That Council approve the proposed amendment to the employment committee’s terms of reference to include:

In the event of a post at head of service level or above being determined as a jointly funded post between the Council and a partner organisation to agree to the recruitment and, where agreement is given, the committee can agree the make up of the sub committee which may include partners from other organisations.

BACKGROUND PAPERS

[Local Democracy, Economic Development & Construction Act 2009](#) (sections 10 to 22).

[Listening to Communities: Statutory Guidance on the Duty to Respond to Petitions](#)

[Local Democracy, Economic Development & Construction Act 2009 \(Commencement Order No. 3\) 2010](#)

APPENDICES ATTACHED

[Appendix A](#) Draft Petition Scheme

Contact Point: Chris Mathews, Head of Democratic Services, ☎ 823280 e-mail chris.mathews@iow.gov.uk

DAVINA FIORE
Director of Corporate Services and Monitoring Officer