

Your ref:
My ref: DGC/HJP/
Your letter received:

CLG Consultation Co-ordinator,
Zone 6/H10,
Eland House,
London,
SW1E 5DU

15 February 2010

petitions@communities.gsi.gov.uk

**Customers, Workforce and Governance
Directorate**

P.O. Box 9, Shire Hall
Warwick, CV34 4RR
DX 723362 Warwick 5

David Carter, MA LLB

Strategic Director of Customers Workforce
and Governance

Tel: 01926 412564 Fax: 01926 476881

E-mail: davidcarter@warwickshire.gov.uk

www.warwickshire.gov.uk

Dear Sir,

**CONSULTATION: DRAFT STATUTORY GUIDANCE DUTY TO RESPOND TO
PETITIONS**

I write on behalf of Warwickshire County Council in response to the above consultation paper. The views of the Council are set out below.

Main guidance

Question 1:

Does the guidance clearly set out the key principles and requirements of the petitions duty?

Paragraphs 10 to 16 of Chapter 1 adequately summarise the legal requirements. In paragraph 22 the bullet point 'is made under another enactment but does not qualify under that enactment (see paragraph 33)' would it not just be better to say 'does not qualify under another enactment'. An additional bullet point 'relates to a relevant matter' would seem to be a key issue that should be included here.

Question 2:

Are there any existing areas in the guidance which require further clarification?

Chapter 2 Paragraph 51 does not reflect the fact that the full council is no longer the ultimate decision maker for many decisions. The government has implemented a scheme of political management which means that most of the day to day powers of a local authority are now ultimately in the hands of the senior executive member. Whilst practical politics will undoubtedly play a part in any decisions taken statutory guidance should at the least reflect the statutory regime for decision-making.

Chapter 3 The last sentence of paragraph 64 seems to suggest that Overview and Scrutiny Committees must deal with petitions which are deemed to be vexatious, abusive or otherwise inappropriate. If a petition comes into one of those categories it should not even reach an Overview and Scrutiny Committee and should be rejected at an early stage as an invalid petition. It is a complete waste of public resources to allow such petitions to proceed. Generally there seems to be no bar on any petition organiser exercising the right



INVESTOR IN PEOPLE



to appeal to Overview and Scrutiny Committees if dissatisfied with the response. This is potentially going to be expensive for local authorities. Lots of petitions relating to highways are about people trying to leap ahead of others in the priority for works to be carried out etc.

Paragraph 66 refers to the petition organiser being sent a copy of the report and recommendations. If a report has been considered in private session this is not appropriate – if a report is exempt then it should not be sent to the petition organiser –he/she is not bound by any duty of confidentiality as are councillors and officers. He/she should only be sent a public summary which the monitoring officer considers appropriately explains the position without disclosing ‘confidential or exempt’ information in accordance with the normal statutory requirements.

The model scheme should not form part of the formal statutory guidance which should stop at page 29 not 36 as stated. The model scheme should be an illustrative example only and much shorter. It should not be seen as setting an additional set of detailed standards based on a theoretical local authority.

Question 3:

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

The current guidance is focussed very much on local authorities and expectations of them. However the government is attempting through these proposals to open up enquiries into the wider public sector. It would therefore seem appropriate that the government should offer some very clear guidance to the other public sector partners about how important it is that they should constructively and proactively engage with local authority enquiries arising out of petitions. It is our experience, and the ‘Balance of Power’ report clearly demonstrated this, that not all government departments attach the same level of priority to ‘local democracy’ and ‘local accountability’. The omission of commentary aimed at partners is notable by its absence.

Question 4:

Are there any additional areas which, while not appropriate for statutory guidance, you would like to see covered by the expert practitioners in their sector-led guidance?

No

Question 5:

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

No

Model scheme

Question 6:

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

This should be provided for illustration purposes only. Its presentation would need to be carefully considered on a website. The model scheme is quite lengthy and may be off-putting to people particularly if there is a lot of scrolling to do on a web page and/or lots of clicks on links to enable people to navigate it. We do not consider it would be easy for the

public to use and a much shorter and simpler version would be necessary. This is the problem of central government attempting to micro-manage local government.

Question 7:

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

The standards in the scheme may not be met and may raise unrealistic expectations. This appears to be an attempt to legislate on detailed matters through the back door.

- (a) The model scheme repeats the error in the main guidance that the full council is necessarily the final arbiter regarding decisions. This will significantly mislead the public in terms of the solutions that may emanate from a council debate even in relation to council functions let alone partnership functions.
- (b) Whilst 14 days is appropriate for an acknowledgement it is unrealistic to suggest that the acknowledgement might confirm the Council will take the action requested. Local authorities will need to decide whether the petition relates to relevant matters and may also choose to verify signatures.
- (c) Not all local authorities have council meetings on a monthly cycle.
- (d) Calling a referendum is included as one of the possible steps. We are not sure why this has been included in the model as it is most likely to be undertaken in cases of petitions made under other enactments and not those governed by the scheme. Referendums are expensive undertakings and we are operating in the context of significant cuts in public spending.
- (e) The examples of specific steps in relation to particular issues whilst interesting are not appropriate for a model scheme. Each local authority will need to consider the content of any particular petitions in the light of its own particular circumstances. Standard suggested responses like these are not compatible with local people finding local solutions. This appears to be central government imposing their own national priorities on something which is supposed to be about local democracy, the concerns of local people and local solutions.
- (f) Expecting an O&S Committee to consider a request for review of a petition response within 30 days is totally unrealistic. We have a cycle of Overview and Scrutiny Committee meetings based on a quarterly cycle – 3 months would be more a more appropriate timeframe. Reducing the number and incidence of such committee meetings is part of the steps taken by this authority to meet expected cuts in the public spending. It is also to help members find time to be out and about in their communities rather than sitting in committee meetings.

Question 8:

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

No –in fact we believe it should be shortened –see above.

Draft order

Question 9:

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

We agree with the categories listed in the draft order. They are consistent with the exclusions made relating to councillor calls for action.

Question 10:

Do you think there should be additional categories excluded? If so, please state what they are and why you feel they should be excluded.

We believe that a further category should be added relating to vexatious, abusive or inappropriate petitions. Such provision was made in the excluded matters relating to councillor calls for action and it seems inconsistent not to include a similar provision in this order, particularly given the close nature of the 2 processes. It is a waste of limited public resources for these types of petitions to be included within any scheme.

Additional questions – Next steps

Question 11:

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

The impact assessment at the beginning of the consultation paper says that *'the proposals set out in this consultation will impose costs on local authorities and comments they may also deliver savings. In line with the Government's new burdens doctrine, any net additional cost will be fully and properly funded by the Department for Communities and Local Government so that no additional pressure is placed on council tax bills.'*

We would like further information about this additional money and how the net cost would be calculated. Certainly we agree that the proposals have the potential to increase expenditure. This is another bureaucratic system to service, and supporting the petition scheme, holding public inquiries, public meetings, extra committee meetings etc will all have a significant cost for authorities. Staff time and resources will need to be diverted to enable the schemes to be supported at a time when the government has indicated significant cuts in public spending. There is no indication of the level of extra funding which might be available from central government or how the government believes savings would be made or even quantified. These issues should be clarified before the duty is brought into force.

The petitions scheme extends to partner authorities activities. If a petitions scheme is to work well then consultation with those partners will be necessary. Local authorities should have at least a 6 months lead in time to develop and consult on any petition scheme.

Question 12:

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

Local authorities would certainly need time to evaluate the market, competitively tender, purchase and implement any e-petition facility –again another cost. There should be at the very least a further 12 month gap between the general duty and the requirement to provide an e-petition facility. In two –tier areas local authorities might wish to combine their purchasing powers and the need to liaise with others might mean a more realistic timescale would be 2 years. The purchase of the software will involve the local authority spending cash upfront as well as the need to divert time and resources to ensure any e-facility is integrated properly into other IT systems (possibly also partners systems) if the facility is to be effective.

Most local authorities are currently struggling with the proposed cuts in public spending and it seems inappropriate to impose these provisions at such a time without the government coming up with some hard cash to support the proposals.

Yours faithfully,

David Carter
Strategic Director of Customers, Workforce and Governance