

**CONSTITUTION COMMITTEE**

**28 February 2022**

---

**REPORT OF DIRECTOR OF GOVERNANCE AND LEGAL SERVICES  
AND MONITORING OFFICER**

---

**Draft Petition Scheme**

**Reason for this Report**

1. The purpose of this report is to provide the Constitution Committee with a draft Petition Scheme for its consideration and approval.

**Background**

2. The Local Government and Elections (Wales) Act 2021 places a duty on the Council to make and publish a “petition scheme” setting out how the council intends to handle and respond to petitions (including electronic petitions). The new duty comes into force from 5<sup>th</sup> May 2022. The petition scheme must, set out:
  - a) how a petition may be submitted to the council;
  - b) how and by when the council will acknowledge receipt of a petition;
  - c) the steps the council may take in response to a petition received by it;
  - d) the circumstances (if any) in which the council may take no further action in response to a petition;
  - e) how and by when the council will make available its response to a petition to the person who submitted the petition and to the public.
3. The council also has a duty to review its petition scheme from time to time and, if the council considers it appropriate, revise the scheme. If the council revises or replaces a petition scheme, it must publish the revised or new scheme.

**Issues**

4. Guidance for a Council’s Petition Scheme is expected to be published in the autumn. This guidance has yet to be released for formal consultation, but it is expected that this will take place before the summer break. The proposed petition scheme may need to be reviewed when the guidance is published, and it is proposed that it be included as part of the Council’s Public Participation Strategy which is currently being developed and which will be the subject of a public consultation which will inform an equalities impact assessment later this year.

5. The pre-consultation draft guidance identifies that the petition scheme should be linked to the Council's Participation Strategy and should be developed not just to ensure a fair and robust process but also to provide a helpful and positive experience for those people who take the time to submit and promote petitions. This is likely to involve consideration of the following issues:
- A clear explanation of the matters about which the council will accept petitions, including the criteria for making a decision to accept or reject a petition;
  - How and where advice will be given to petitioners to enable them to engage productively with the process, including measures in place for disabled people and individuals with long term health conditions and neurodiversity;
  - A clear understanding of the different stages in the petitions scheme, with an explanation of what thresholds will be used to determine the transition from one stage to another;
  - How petitions fit in with other opportunities for the public to be involved – and signposting to other opportunities, either as complementary to a petition or instead of it;
  - The correct body to consider a given petition. It is right for petitions to be heard by a variety of different bodies, although the default is likely to be full Council unless it is seen as especially useful for the petition to be heard by a committee that focuses specifically on the subject matter of the petition itself;
  - Petition schemes will need to consider where petitions are considered in scrutiny committees. These committees have no power to act on petitions but could (for example) adopt petitioners' arguments as formal recommendations;
  - The rights of petitioners to speak in meetings, and how this engages with wider public speaking rights, and rights to make deputations;
  - How and within what timeframe the council will provide feedback to the petitioner on the success or otherwise of their petition.

#### Updating of the Councils Interim Arrangements

6. On 24 September 2020, in response to the coronavirus restrictions, the Council approved interim arrangements for the submission of electronic petitions under the Council Meeting Procedure Rule 20, subject to compliance with certain conditions, pending the introduction of a new Petition Scheme.
7. Discussions between the Chair of the Planning Committee and senior Planning officers, have indicated that no significant changes to the petition scheme related to Planning Committee procedures are currently required and that any new proposals should be developed in collaboration with the Planning Committee membership in the new administration.
8. Therefore, it is proposed that the interim arrangements be updated to reflect the likely contents of the Petition Scheme.
9. A draft of Cardiff Council's proposed Petition Scheme is attached at **Appendix A**. This reflects the interim arrangements, the lessons learned whilst these arrangements have been in place and the likely requirements of the Petition Scheme guidance.

10. In addition, alternative options to submitting a petition which may be a better option for members of the public to have their say, have been added the petition scheme. These include:
- a) Writing to the appropriate Cabinet Member or Senior Officer
  - b) Contacting your local Councillor
  - c) Responding to a Consultation
  - d) Raising your concerns with the Scrutiny service
  - e) Making a suggestion through the Council's website
  - f) Asking a question at Council.

#### Proposed Key Changes

11. The proposed key changes are listed below with the corresponding changes in the Constitution being identified in **Appendix B** and include:
- a) Details for the submission of paper petitions and any electronic petitions by email to the Democratic Services mailbox 7 working days before the date of a Council or committee meeting.
  - b) the information to be provided to Democratic Services regarding the petition which must include:
    - details and contact information for the lead petitioner
    - the subject and intention of the petition
    - the number of signatories to the petition
  - c) The lead petitioner, and signatories may be an individual who lives, works or studies within Cardiff Council's area of responsibility or an or an organisation based in the Cardiff Council area.
  - d) The Council will consider all relevant petitions with more than 10 signatories that fall within the scope of this Scheme.
  - e) All petitions must include:
    - The name of the lead petitioner
    - The subject and intention of the petition
    - The name and Cardiff postal address of those signing the petition, including a postcode.
    - petitions submitted in connection with a live Planning Application the petition must also contain the planning application reference number and planning issues that may be relevant to the planning decision.
  - f) That a petition with the necessary information which does not relate to a regulatory application will result in the lead petitioner or relevant ward Councillor being invited to present the petition at the Council meeting during the petitions item on the Council agenda. They will be allowed to speak for one minute. The presentation of the petition to Council by a lead petitioner was discussed with Political Group Whips who considered this to be beneficial for public participation. When reviewed as part of the

Participation Strategy there will be an opportunity to address any concerns which arise in practice.

- g) For Council and committee petitions (other than Planning Committee petitions), if a number of petitions are received with a similar topic and desired outcome, only one lead petitioner will be able to present their petition to Council. The lead petitioner for each petition will be notified by Democratic Services and requested to liaise with each other to consider options to amalgamate petitions and determine which lead petitioner will present the petition to Council. If agreement is not reached the petitioner with the highest number of signatories will have the right to speak.
  - h) Any petitions which are received which do not meet the criteria will not be presented at a Council meeting.
  - i) For petitions presented to Council or a Committee, (other than to the Planning Committee) a written response to the lead petitioner from the appropriate Officers or Cabinet Member will be provided within 20 working days of the presentation of a valid petition. Confirmation that the response has been provided will be published on the Council's Petitions web page. This is replicated for the Committee Procedure Rules and the Planning Committee Procedure Rules.
  - j) For Planning Committee petitions: For a petition with less than 50 signatures which affords no speaking rights at committee a response to any relevant planning grounds will be provided within the planning report with such report available for public inspection on the Council's planning register following determination of the application. No further response will therefore be provided.
  - k) Exceptions in the:
    - period immediately before an election or referendum we may need to deal with your petition differently. If this is the case we will explain the reasons and discuss any revised timescale which may apply.
    - event that more than one valid petition is submitted in relation to a live planning application and there is more than one petitioner wishing to speak on a planning application, the Head of Planning, in consultation with the Chair of Planning Committee may determine at his discretion whether more than one petitioner should be afforded speaking rights in order to secure a proper, full and effective debate of the planning application by virtue of the subject matter and planning issues to which the petitions relate
12. The implementation of the revised petition scheme is seen as beneficial for the residents of Cardiff and no adverse equality impacts have been identified. The Equality Impact Assessment will be reviewed after the development of and consultation on the Participation Strategy.

### Implementation of the Petition Scheme

13. The Local Government and Elections (Wales) Act 2021 requires Local Authorities to make and publish a Petition Scheme, a duty which comes into effect from 5<sup>th</sup> May 2022.
14. Development of the Council's own e-petition facility on the Modern.gov committee administration system will be progressed based on the approved petition scheme.

### Review of the Petition Scheme

15. It is proposed that the petition scheme be reviewed after 6 months as part of the development of the Council's Participation Strategy which will include public consultation on any revised proposals.

### Legal Implications

16. The Council's duty to make and publish a petition scheme is introduced by section 42 of the Local Government and Elections (Wales) Act 2021, which comes into force on 5<sup>th</sup> May 2022. The specific legislative requirements are set out in paragraphs 2 and 3 of the report. In considering this matter, the Council must have regard to any statutory guidance issued by the Welsh Government.
17. The Constitution currently makes provision for petitions in the Council Meeting Procedure Rules, Rule 20; the Committee Meeting Procedure Rules, Rule 14.2; and the Planning Committee Procedure Rules, Rule 14.2. Draft amendments to these meeting procedure rules are set out in Appendix B. The proposed changes to these Rules will require the approval of full Council.
18. When considering its petition scheme, the Council must have regard to:
  - (i) public sector equality duties under the Equality Act 2010 (including specific Welsh public sector duties). These legal duties require the Council to have due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of protected characteristics. The Protected characteristics are: age, gender reassignment, sex, race – including ethnic or national origin, colour or nationality, disability, pregnancy and maternity, marriage and civil partnership, sexual orientation, religion or belief – including lack of belief. When taking strategic decisions, the Council also has a statutory duty to have due regard to the need to reduce inequalities of outcome resulting from socio-economic disadvantage ('the Socio-Economic Duty' imposed under section 1 of the Equality Act 2010). In considering this, the Council must take into account the statutory guidance issued by the Welsh Ministers and must be able to demonstrate how it has discharged its duty. An Equalities Impact Assessment should be carried out to identify the equalities implications of the proposed arrangements, including inequalities arising from socio-economic disadvantage, and due regard should be given to the outcomes of the Equalities Impact Assessment.
  - (ii) The Council must also be mindful of the Welsh Language (Wales) Measure 2011 and the Welsh Language Standards and consider the impact of its arrangements upon the Welsh language.

- (iii) The Well-being of Future Generations (Wales) Act 2015 requires the Council to consider how its proposals will contribute towards meeting its well being objectives (set out in the Corporate Plan). Members must also be satisfied that the proposals comply with the sustainable development principle, which requires that the needs of the present are met without compromising the ability of future generations to meet their own needs.

### **Financial Implications**

- 19. The provision of the Council's E-Petition facility is contained within the Modern.gov committee administration system. This system is funded from the existing Democratic Services budget at no extra cost.

### **RECOMMENDATIONS**

- 20. The Constitution Committee is recommended to:
  - a) Consider the content of the report and appendices.
  - b) Approve the Draft Cardiff Council Petition Scheme as attached at Appendix A
  - c) Recommend to Council that the Constitution be amended as proposed in Appendix B to reflect the changes to the petition scheme.
  - d) Recommend to Council that the Petition Scheme be published by 5<sup>th</sup> May 2022

**DAVINA FIORE**

**Director of Governance and Legal Services and Monitoring Officer**

22 February 2022

Appendix A Draft Cardiff Council Petition Scheme

Appendix B Proposed Amendments to the Constitution

Background Papers:

[E- Petitions](#) report to the Constitution Committee dated 19 November 2015

[Governance Update – Restart Arrangements](#) report to Council dated 24 September 2020

[Local Government and Elections \(Wales\) Act 2021](#)