

Proposed Change to the Council's Constitution Regarding Petitions

Summary

1. This report gives details of proposed constitutional changes suggested by Councillor Scott in relation to the way the Council presently deals with petitions submitted to it from residents or businesses within the area.

Background

2. Councillor Scott had originally intended to submit a motion to Council as follows but on the advice of the Head of Civic, Democratic & Legal Services agreed to a report being presented instead to this Committee:

"Council recommends that this Council amend its Constitution so as to allow for residents to initiate a debate at Full Council upon any issue touching and concerning the City of York where a minimum of 1000 residents petition. In addition Council Officers are instructed to report on the possibility of providing an on-line petition facility and that such a report be approved by the Executive so that it might be included on the agenda of the next Full Council"

3. Under the Scheme of Delegation, one of the functions of this Committee is to consider and put to full Council all proposals to amend the Constitution submitted by Members. This function enables this Committee to receive a full report on the implications of any constitutional change raised by Members, based on which the Committee can then make a recommendation to Council.

Current Position

4. Currently, there is only constitutional provision for Members to submit petitions, irrespective of the number of signatories, to meetings of the full Council. The following is a direct extract of the wording contained in Standing Order 7 on petitions:

“At any meeting of the Council, except the Annual Meeting, provided that notice has been given to the Chief Executive, by 10.00am on the working day before the meeting, any Member may present a petition, provided that the presentation does not exceed 3 minutes. Any petitions presented to Budget Council should relate to business on the agenda and be related to the setting of the budget for the coming financial year.

No discussion will take place on any matter raised by a petition but the matter will stand referred to the Executive or to the appropriate Committee.”

5. The above Standing Order therefore does not currently provide for any debate at Council on the subject matter of any petition before it. Rather it refers petition to the appropriate Committee or to the Executive, so that a report can be prepared on any relevant issues or implications associated with the subject matter of the petition. Currently, such a report is prepared by the relevant Council Officer, attaching or referencing the petition. The report and petition are then debated upon at the appointed Committee (or Executive if applicable) and a decision made by Members of that Committee (or the Executive as necessary) where applicable.
6. Councillor Scott’s intended motion also refers to the possibility of the Council introducing on-line petitioning. Currently, the Council does not facilitate this. However, preliminary discussions have in the past taken place between Easy @ York and Democratic Services with a view to looking at the possibilities of both introducing on-line registering to speak at ‘Committee meetings’, as well as on-line petitioning.
7. Further the Council’s Committee Management System (CMS) provided by Mod Gov is also capable of both these functions.

Current Legal Position

8. The Local Democracy, Economic Development & Construction Bill has now been introduced in the House of Lords and was published on 5 December 2008. It covers a wide range of subjects from economic prosperity boards, audit, involvement and to a new duty to promote democracy to construction contracts. However, it also addresses petitions. The proposals for these elements emerge from the recent White Paper, ‘Communities in Control: Real People, Real Power’ and are concerned with strengthening local democracy, through passing more power and responsibility to local authorities, communities & citizens.
9. The Bill plans to introduce a new duty upon local authorities to respond to petitions. According to a recent YouGov survey, 90% of people think Councils should take account of petitions. However, a recent LGA (Local Government Association) survey suggested that less than a third of Councils actually guarantee a response.

10. Constitutionally, City of York Council does not guarantee a direct response to petitions received. Paragraph x above, however, sets out the process whereby Members have a constitutional right to submit petitions on behalf of residents. Additionally, petitions can be sent directly by residents to the relevant directorate. The custom and practice across the Council when in receipt of such petitions is to prepare the customary report on the petition and its implications and submit it to the relevant Committee (or the Executive). So, in effect, petitions received in this manner are treated formally in the same way as petitions submitted by Members to full Council.
11. The new duty, if introduced formally through legislation, will, however require Councils to respond to petitions, with the intended aim of improving transparency in local decision-making and the extent to which citizens feel able to influence local decisions.
12. Clearly, this Bill has not yet been enacted and elements of it, including the petitioning duty, may yet change.

New Scrutiny Structure

13. Members will be aware that a decision was taken at full Council in November 2008 to alter the structure of scrutiny committees in York and to consequently remove Executive Member Advisory Panels (EMAPs). Council set up a working group to look at and report back to it on the implementation details of its decision. That work is about to start. Any changes to the scrutiny structure and removal of EMAPS will not take place until the start of the new Municipal Year at the end of May 2009.

Consultation

14. The Head of Civic, Democratic & Legal Services has been consulted on the legal context set out in this report. Further consultation needs yet to take place with [Easy@York](#) and Mod Gov (CMS) in relation to the technical possibilities of introducing on-line petitioning and registration to speak facilities, as well as extending e-consultation facilities.

Options

15. It is suggested that Audit & Governance Committee do not recommend any current changes to the Constitution in respect of Councillor Scott's suggestions for petitions on the basis of the following:
 - Details contained in the Local Democracy, Economic Development & Construction Bill could still change. Some elements are still subject to consultation and consultation on its related White Paper (Empowering Communities) only closed on 30 October 2008;

- Constitutional changes will emerge from the details of the scrutiny restructure and any additional ones Members may wish to make in respect of petitions could be readdressed at that time

16. The options available are as detailed below:

Option 1

Consider recommending a constitutional change to Council in respect of Standing Order 7 as referenced in paragraph 4 above. Such change to be worded so as to provide for '*residents to initiate a debate at Full Council upon any issue touching and concerning the City of York where a minimum of 1000 residents petition*'

Note: The matter of on-line petitioning will in any event need to be given further consideration by the relevant parties referred to in paragraph 14 above and as just one way of facilitating petitioning rights, would not need to be referenced specifically in the Constitution.

Option 2

To agree not to recommend any changes to the Constitution at this time but to receive a further report on the suggestion when the Bill has been enacted, its full implications known and when further details have emerged on the restructure of scrutiny.

Option 3

To agree not to recommend any changes to the Constitution in relation to petitions.

Corporate Priorities

17. Whilst the aims behind the suggestions being put forward by Councillor Scott do not directly contribute to any of the Council's current priorities for improvement, it could be said that providing on-line petitioning and facilitating debate at Council on certain petitions contributes to 'delivering what our customers want' and 'encourages improvement in everything we do'.

Implications

18. Financial

There would be financial and resource implications associated with introducing on-line petitioning. If Members are minded towards Option 2, then further details would be reported back on these implications at that time.

19. Legal

20. The legal context associated with this report is set out in paragraphs 8-12. If the Government does impose a duty upon local authorities to respond to petitions, then a constitutional change will be required. Such change, however, will be better informed by the details on this possible duty which may emerge through the Bill's passage.

21. **Crime and Disorder** – There are no Crime and Disorder implications.

22. Information Technology

23. Clearly, there are IT & t implications associated with the introduction of on-line petitioning and should Members be inclined towards Option 2 above, these will be fully addressed in a further report to Members in due course.

Risk Management

24. There are no risks associated with not making a constitutional change now in respect of Councillor Scott's suggestion. However, it should be noted that there would a risk of having to make further change in the future once legislation referred to has been enacted if constitutional change were recommended on the basis of what we know now.

Recommendations

Members are asked to consider the options detailed above and make an appropriate recommendation to Council.

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Report Approved



Date 31.12.08

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Financial

Implication ie Legal

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Wards Affected:

All



For further information please contact the author of the report

Background Papers:

The Local Democracy, Economic Development & Construction Bill

Annexes

None.