
PETITIONS AND DEPUTATIONS COMMITTEE

Report by Chief Executive

SCOTTISH BORDERS COUNCIL

31 March 2016

1 PURPOSE AND SUMMARY

- 1.1 This report provides Members with an update of the work of the Petitions and Deputations Committee and proposes an amendment to the process for acceptance of a petition.**
- 1.2 Since its formation, the Petitions and Deputations Committee has considered 12 petitions. There have, however, been a number of petitions which have not been admissible due to the petition relating to a decision made by the Council or a committee during the preceding six months. The issue for some petitioners or potential petitioners is the 6 month rule. Officers have considered whether this rule could be relaxed in some way and any consequences of so doing. In this regard, Officers do not consider it appropriate for any decisions of full Council to be the subject of a petition within 6 months of that decision as such decisions are taken by all 34 Councillors.
- 1.3 However, it may be appropriate to consider amending the process regarding petitions which is linked to decisions of the Executive Committee within this 6 month time period. It is therefore proposed that the process for submission of petitions be amended to include the following: "that the Chief Executive, in consultation with the Chairman of the Petitions and Deputations Committee, has the discretion to allow consideration of a petition which is linked to a decision of the Executive Committee taken within the preceding 6 months as long as a delay would not prejudice the best interests of the Council". In this respect, the best interests of the Council could be, for example, the decision is a formal response by the Council which has to be given within a prescribed deadline; immediate action is needed in order to avoid possible legal proceedings against the Council; or deferral of an immediate implementation of the decision could result in financial detriment to the Council. Details of the amended petitions process are attached as the Appendix to this report. It is further suggested that the new process is trialled until the end of the current Council's term of office in May 2017.
- 1.4 If the amendment to the Petitions process is accepted then this will require an amendment to Standing Order No. 26.

2 RECOMMENDATIONS

2.1 I recommend that the Council:-

- (a) commends the work to date of the Petitions and Deputations Committee;
- (b) approves the new Petitions and Deputations process as detailed in the Appendix to this report;
- (c) approves the amendment of Standing Order No. 26 as follows –

“Any motion or amendment to rescind or amend any decision which has been passed within the preceding six months, and any motion or amendment to the same effect as any motion or amendment which has been negated within the preceding six months, shall not be in order unless notice thereof has been duly given and has been specified in the notice calling the meeting. The notice of motion or amendment shall bear the signature of the member who proposes the motion and also signatures of at least six other members. When any such motion or amendment has been disposed of by the Council, it shall not be competent for any member to propose a similar motion or amendment within a further period of six months. In the event of there being any doubt as to the motion or amendment being a similar one, the question shall be decided by the Chairman. **The only exception to this will be if the subject of a petition linked to a decision of the Executive Committee is referred to Council from the Petitions and Deputations Committee.”**

- (d) agrees that the new petitions process be trialled until the end of the current term of office of the Council in May 2017.

3 BACKGROUND

3.1 As a result of the review of the formal decision making process of the Council a new Petitions Committee was included in the Council's Scheme of Administration which was approved on 30 August 2012. A further report was considered by Council at its meeting on 28 February 2013 and a petitions process was subsequently approved. The petitions process includes –

- (a) What is acceptable as a petition;
- (b) Who can submit a petition
- (c) How many signatories are required
- (d) Petitions being submitted by businesses or organisations
- (e) Petitions being made public
- (f) How petitions will be dealt with
- (g) Petitioners being invited to appear before a Petitions Committee to speak in support of their petition
- (h) What action the Petitions Committee can take
- (i) How decisions will be conveyed to the Principal Petitioner.

3.2 At its meeting on 20 November 2014, Council approved in principle a deputations procedure which would operate in the same way as the petitions procedure to ensure equity between individuals and groups. The final deputations procedure was approved subsequently by Council at its meeting on 19 February 2015.

3.3 This report gives an update to Members on the working of the Petitions and Deputations Committee and proposes an amendment to the petitions process.

4 PETITIONS AND DEPUTATIONS COMMITTEE

4.1 Since its formation, the Petitions and Deputations Committee has considered 12 petitions:

- (a) 13 June 2013
 - Mosilee Road, Galashiels pavement (referred to Director of Environment and Infrastructure and also Environment and Infrastructure Committee for follow up);
 - Dropped kerbs at Canongate Underpass, Jedburgh (referred to Director of Environment and Infrastructure to follow up with BEAR Scotland)
- (b) 22 August 2013
 - Playground for Tweed Mills, Dunsdale Road, Selkirk (no further action in light of 'Bannerfield Active' project);
 - 20mph request for Crofts Road, Lauder (referred to Director of Environment and Infrastructure and also to Environment and Infrastructure Committee for follow up);
 - Traffic Calming Measures around Peebles Primary Schools (referred to Director of Environment and Infrastructure and also to Environment and Infrastructure Committee for follow up);

- 20mph request for Cardrona (referred to Director of Environment and Infrastructure to investigate further and report to Environment and Infrastructure Committee)
- (c) 28 October 2013
- Closure of Reiver Industries (referred to Director of Social Work to provide an update report to the Social Work and Housing Committee on progress with the Learning Disability Day Opportunities Strategy)
- (d) 11 December 2013
- Road junction, Wellsbrae/Damside, Innerleithen (single white line to be put in place to deter parking within 10m of the junction)
- (e) 23 October 2014
- Green Bin Collection (referred to full Council)
- (f) 1 October 2015
- Great Tapestry of Scotland (no further action)
- (g) 10 December 2015
- 120 Bus Service (recognised a bus service was in place and referred to the Service Director Commercial Services to investigate further means of effective communication with communities for subsidised bus services)
- (h) 1 March 2016
- Underpass at Heriot (referred to Depute Chief Executive – Place for further negotiation with Network Rail with regard to maintenance of the underpass)

4.2 The majority of petitioners who have presented a petition to the Committee have expressed satisfaction with the process at the time, including recognising that Council may not always accede to their wishes.

4.3 There have, however, been a number of petitions which have not been admissible due to the petition relating to a decision made by the Council or a committee during the preceding six months. These include the petition on the Closure of Reiver Industries (submitted and then subsequently heard at the meeting on 28 October 2013, after the 6 months had passed). Both petitions for the Green Bin Collection and the Great Tapestry of Scotland were held by the Petitioners until the 6 months had passed and then submitted. Recently two more petitions have been received regarding the proposed siting of a 3G pitch at Victoria Park, Peebles (one in favour and one against). Both petitions were inadmissible due to the 6 month rule.

5 PROPOSED CHANGE TO PETITIONS AND DEPUTATIONS PROCESS

5.1 The Council has a number of ways in which it engages with the public – through Councillors and officers, with consultations on various projects, through the website whereby the public are encouraged to send in comments about Council services, and also through the petitions and deputations process. The issue for some petitioners or potential petitioners is the 6 month rule. Officers have considered whether this rule could be

relaxed in some way and any consequences of so doing. In this regard, Officers do not consider it appropriate for any decisions of full Council to be the subject of a petition within 6 months of that decision as such decisions are taken by all 34 Councillors.

- 5.2 (a) However, it may be appropriate to consider amending the process regarding petitions which is linked to decisions of the Executive Committee within this 6 month time period. It is therefore proposed that the process for submission of petitions be amended to include the following –

“that the Chief Executive, in consultation with the Chairman of the Petitions and Deputations Committee, has the discretion to allow consideration of a petition which is linked to a decision of the Executive Committee taken within the preceding 6 months as long as a delay would not prejudice the best interests of the Council”.

- (b) In this respect, the best interests of the Council could be, for example, that the decision is a formal response by the Council which has to be given within a prescribed deadline; immediate action is needed in order to avoid possible legal proceedings against the Council; or deferral of an immediate implementation of the decision could result in financial detriment to the Council.

- 5.3 Should such a petition be heard by the Petitions and Deputations Committee, and the Committee wished to refer the matter for further consideration or amendment of a decision, then the matter would be referred to the next full Council meeting for consideration and possible amendment of the original decision of the Executive Committee. The petitioner would not have the right to speak at or participate in the consideration of the subject of the petition at the Council meeting unless at the discretion of the Convener. Details of the amended petitions process are attached as the Appendix to this report. It is not the intention for decisions of the Executive Committee to be put “on hold” just in case a petition is received, so there should be no delay in the day to day implementation of Executive Committee decisions.

- 5.4 Should the amendment to the Petitions process be accepted, then an amendment is required to Standing Order No. 26:

“Any motion or amendment to rescind or amend any decision which has been passed within the preceding six months, and any motion or amendment to the same effect as any motion or amendment which has been negatived within the preceding six months, shall not be in order unless notice thereof has been duly given and has been specified in the notice calling the meeting. The notice of motion or amendment shall bear the signature of the member who proposes the motion and also signatures of at least six other members. When any such motion or amendment has been disposed of by the Council, it shall not be competent for any member to propose a similar motion or amendment within a further period of six months. In the event of there being any doubt as to the motion or amendment being a similar one, the question shall be decided by the Chairman. **The only exception to this will be if the subject of a petition**

linked to a decision of the Executive Committee is referred to Council from the Petitions and Deputations Committee.”

- 5.5 It is proposed that should the amendments to the petitions process be accepted, these should be trialled until the end of the current Council term of office i.e. April 2017.

6 IMPLICATIONS

6.1 Financial

There are no costs attached to any of the recommendations contained in this report.

6.2 Risk and Mitigations

Should the change in process be approved, it could open the door for a number of petitions linked to Executive Committee decisions which was not envisaged as part of the original intended purpose of the Petitions process. It is not the intention for decisions of the Executive Committee to be put “on hold” just in case a petition is received, so there should be no delay in the day to day implementation of Executive Committee decisions. Petitions will be monitored to ensure that the process is not being manipulated by individuals. Councillors still have the option of using the “Call-in” process for decisions of the Executive Committee should there be an immediate issue with a decision.

6.3 Equalities

It is anticipated that there will be no adverse equality implications caused by the proposed changes to the petitions process.

6.4 Acting Sustainably

There are no economic, social or environmental effects in changing the petitions process.

6.5 Carbon Management

There is no impact on the Council’s carbon emissions of having a petitions process.

6.6 Rural Proofing

There is no impact on rural areas from the change in the petitions process.

6.7 Changes to Scheme of Administration or Scheme of Delegation

A change is required to the Council’s Standing Order No. 26, should the changes to the petitions process be approved. Details of this change are contained in the recommendation at paragraph 2.1(c).

7 CONSULTATION

- 7.1 Members of the Petitions and Deputations Committee, the Council’s Corporate Management Team, and the Chief Officer Audit and Risk have been consulted, and any comments received have been incorporated into the final report.

Approved by

**Tracey Logan
Chief Executive**

Signature

Author(s)

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Background Papers: Nil

Previous Minute Reference: Scottish Borders Council, 28 February 2013

Note – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Jenny Wilkinson can also give information on other language translations as well as providing additional copies.

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Scottish Borders Council Petitions Procedure

The function of the Petitions and Deputations Committee is to consider petitions submitted to the Council in accordance with the Council's approved petitions procedure, outlined below, and to determine the appropriate action to be taken within the terms of the procedure.

Petitions

1. Petitions should raise issues which relate to matters within the responsibility of Scottish Borders Council or the general well-being of the residents of the Scottish Borders. Petitioners should be able to demonstrate that there is a public interest in the issue that they are raising.
2. A petition should be on a standard form (Appendices B and C), titled and should include a clear statement (no more than 250 words) which covers the main subject. Any further information, for example, about measures already taken or approaches made to other bodies, should be included but limited to no more than 4 sides of A4 paper.
3. The form is available on the Council's website, where it can be completed and submitted on-line, or printed and posted to the Clerk, or it is available in paper format on request to the Clerk to the Council. Guidance in the form of a Question/Answer sheet (Appendix A) is also available which provides information about the procedure and can assist in the completion of the form.
4. Petitions should be accompanied by at least 10 signatures in total, from persons aged 16 and over, resident in the Scottish Borders. The signatures must be from a minimum of 3 separate addresses. The principal petitioner should be on the Register of Electors for the Scottish Borders Council area.
5. Petitions from local businesses shall be accepted where there is support from at least 5 businesses on the Valuation Roll for Scottish Borders Council.
6. Elected Members may not be a signatory on a petition and no petition will be accepted from a political party.
7. Where there are already regulatory procedures in place or the matter relates to individuals, then it would not be appropriate to accept such petitions, therefore petitions shall not be accepted:
 - (i) about planning, licensing, or other matters where there are already regulatory procedures in place;
 - (ii) about personal or business issues;

- (iii) about commercially sensitive or confidential material;
 - (iv) about individual Councillors, members of Council staff, or other individuals who may easily be identified;
 - (v) about employees' terms and conditions of employment;
 - (vi) about information which is protected by an interdict or court order;
 - (vii) about an allegation that someone has broken the law;
 - (viii) which contain language which is defamatory, offensive, provocative or otherwise inappropriate;
 - (ix) which relate to a complaint or grievance (which should be handled through the Council's complaints procedure);
 - (x) which relate to a decision made by the Council or a committee, **other than the Executive Committee**, during the preceding six months; and
 - (xi) which are identical or similar to other petitions made within the preceding twelve months.
8. The Clerk to the Council, or her representative, shall ensure petitions keep to procedures and are admissible. All valid petitions, with accompanying information if any, shall be passed to the next scheduled meeting of the Petitions Committee. Petitions which are the same, or substantially similar, shall be considered together.
9. (a) **The Chief Executive, in consultation with the Chairman of the Petitions and Deputations Committee, has the discretion to allow consideration of a petition which is linked to a decision of the Executive Committee taken within the preceding 6 months as long as a delay would not prejudice the best interests of the Council.**
- (b) **In this respect, the best interests of the Council could be, for example, the decision is a formal response by the Council which has to be given within a prescribed deadline; immediate action is needed in order to avoid possible legal proceedings against the Council; or deferral of an immediate implementation of the decision could result in financial detriment to the Council.**
10. A summary report shall be prepared for the Committee by the Clerk to the Council about any petitions received during the period that are considered inadmissible for any of the reasons listed in paragraph 7 above. The Committee will make the final decision as to whether these are valid.

Meetings of the Petitions and Deputations Committee

11. When hearing a petition the relevant Director(s), Executive Member(s) and Community Planning Partner representative(s) shall be invited to attend the meeting to provide further information, as appropriate.

12. The principal petitioner should indicate on the form whether or not he/she, or a named deputy, wish to have the opportunity to make a statement at the meeting of the Petitions and Deputations Committee where their petition is being considered. It would be normal practice to allow the principal petitioner or a deputy to speak, but this is at the discretion of the Chairman of the Petitions and Deputations Committee.
13. No deputation to the Meeting of the Petitions and Deputations Committee shall exceed 10 in number and, at the discretion of the Chairman, only one speaker shall be heard by the Committee. The time allowed to present the petition shall not exceed 10 minutes, except at the discretion of the Chairman. The speaker should also be prepared to answer questions.
14. Notice of petitions scheduled to be considered by the Petitions and Deputations Committee will be through the usual on-line public access facility to committee papers, with a link from the petitions "page" on the Council website. Those signing petitions should be made aware that the detail of the petition, with their name and address (but not signature), will be published on the Council website as part of the agenda pack for the meeting of the Petitions and Deputations Committee.
15. For the moment, no "e-petitions" will be facilitated or comments from the public on petitions scheduled for consideration by the Petitions and Deputations Committee accepted.
16. The procedure at the meeting, for each petition considered, shall be as follows:
 - (i) the meeting shall be in public unless the subject matter of the petition would be deemed to be confidential under the terms of Section 7A of the Local Government (Scotland) Act 1973;
 - (ii) the principal petitioner, or named deputy, shall give a statement in explanation of the petition;
 - (iii) there will be an opportunity for Members of the Committee to ask questions of the petitioner or their named deputy;
 - (iv) there will be an opportunity for any Director(s), Executive Member(s) and Community Planning Partner representative(s) present to ask questions of the petitioner or their named deputy;
 - (v) a response to the petition may be heard from a Director, Executive Member and/or Community Planning Partner representative present at the meeting;
 - (vi) there will be an opportunity for Members of the Committee to ask questions of any Director, Executive Member(s) and Community Planning Partner representative(s) present at the meeting;
 - (vii) there will be an opportunity for the petitioner or their named deputy to ask questions of any Elected Member, Director or Community Planning Partner representative present at the meeting;

(viii) Members of the Committee shall then discuss the information available and consider their findings. The Committee may defer a decision should further information be required.

Note: any contribution on behalf of the petition from a second or other speaker(s) shall be at the discretion of the Chairman. The public will not be allowed to speak at the meeting unless invited to do so by the Chairman.

17. The Petitions and Deputations Committee shall agree to one of the following:-
 - (i) refer the petition to another Committee or Director, with or without a recommendation or comment. That Committee or Director shall then make the final decision which could include taking no further action;
 - (ii) refer the subject of the petition (should it be linked to a decision of the Executive Committee within 6 months) to full Council, with or without a recommendation or comment, for further consideration;
 - (iii) refer the petition to the relevant Community Planning Partner, with or without a recommendation or comment, if appropriate;
 - (iv) that the issue(s) raised do not merit or do not require further action.
18. The decision of the Petitions and Deputations Committee, and any reason for that decision, shall be recorded in the Minute of the Meeting and a copy of the Minute shall be sent to the principal petitioner by Democratic Services staff. Where the petition is referred to a Director or another body, the responsibility for communicating the final outcome of the petition is also referred. Updates on these outcomes will be provided to the Petitions and Deputations Committee.
19. There will be no right of appeal in response to a final decision made in response to a petition.
20. The usage and effectiveness of the petitions procedure shall be reviewed on an annual basis.