

Audit and Governance Committee

Dorset County Council



Date of Meeting	19 January 2018
Officer	Monitoring Officer
Subject of Report	Constitutional Changes
Executive Summary	<p>The Constitution is a living document and is updated from time to time. The Audit and Governance Committee has a specific role in commenting upon proposed changes to the Constitution prior to consideration by the full Council.</p> <p>This report proposes changes which have arisen for consideration by the County Council at its meeting on 22 February 2018.</p>
Impact Assessment:	<u>Equalities Impact Assessment:</u> Not applicable
	<u>Use of Evidence:</u> Evidence is detailed throughout each section of the report to describe the reasons for suggested changes to the Constitution.
	<u>Budget:</u> There are no consequential budget implications as a result of this report.
	<u>Risk Assessment:</u> Having considered the risks associated with this decision, the level of risk has been identified as: Current Risk: LOW Residual Risk LOW
	<u>Other Implications:</u> Not applicable
Recommendation	<p>That the Audit and Governance Committee recommend to the County Council that constitutional changes in relation to the following areas be approved:</p> <ul style="list-style-type: none">• County Council's Petition Scheme• Regulatory Committee Membership

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	<ul style="list-style-type: none">• Pension Fund Committee – Membership
Reason for Recommendation	To contribute to the County Council's Corporate Plan: - Working Together for a Strong and Successful Dorset.
Appendices	Appendix 1 – Feedback from the Petition Scheme survey Appendix 2 – The proposed revisions to the Petitions Scheme
Background Papers	None
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- 1.1 The Constitution is a living document and is updated from time to time. The Audit and Governance Committee has a specific role in commenting upon proposed changes to the Constitution prior to consideration by the full Council.
- 1.2 This report proposes three changes which have arisen and will need to be considered by the County Council at its meeting on 22 February 2018. These are set out below:

The County Council Petition Scheme

- 2.1 The Council's Petition Scheme has been in operation since 2010. It was updated in 2014 to amend the number of signatories required to trigger consideration by Committees, in 2015 regarding the requirements when compiling a petition and in 2016 regarding the use of petition panels when the number of signatories was between 50 and 999. The current scheme has been in operation since 8 June 2016.
- 2.2 Following a recent meeting of Group Leaders on 6 November 2017 the petition scheme has been reviewed due to the impact on members because of the number of petition panel meetings arranged. In addition, a survey was sent in November 2017 to all members and officers who have experienced petition panels to provide feedback on their experiences to date. As a result of the survey, and from monitoring the arrangements, the feedback showed that there could be some difficulty in holding panels with five members; there were a range of views on the thresholds for holding Petition Panels; Traffic Regulation Order petitions could be time consuming; and historical petitions should form part of the consideration of current petitions.
- 2.3 It was also highlighted that since the previous changes better decisions were being made, the process was more reactive to the public, and petitions were being taken seriously following a more direct democratic process.
- 2.4 The changes introduced in June 2016 meant that petitions of between 50 and 999 signatories were considered by a Petitions Panel comprising the relevant Cabinet member(s), the local County Councillor(s) and three other County Councillors. This provided for a panel of five members to consider each petition and has been monitored since its introduction to evaluate how effective the arrangements have been.
- 2.5 It is suggested that in order to address the feedback received, that improvements should be made to the way petitions are considered by:

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- Reducing the size of the Petition panels to just the relevant Cabinet member(s) and local County Councillor(s); and,
- Making it clear that Town and Parish Council approval of Traffic Regulation Order petitions would be sought prior to consideration.

2.6 The thresholds for petitions is one which requires further consideration and is set out below against the current schemes of neighbouring rural county councils.

Threshold	Current	Wiltshire	Devon	Cornwall	Hampshire
Ordinary Petition	50 Petition Panel – Cabinet Member, local member, plus 3 other members	1% of Area Board population	No threshold	250 Refer to Cabinet Member, Committee, Director or other officer.	No threshold. Cabinet Member written response.
County Council	1000	1% of population.	6000 (1% population)	5000	32,000 (2.5% population)
Call to Account	500	Not in scheme	Not in scheme	Not in scheme	Not in scheme

2.7 Given the arrangements summarised above, it is suggested that the County Council amend its threshold for County Council consideration to 1% population rounded to the nearest 250 (*population 422,730 – threshold 4250*), and to remove the part of the scheme that enables senior officers and Cabinet members to be called to account. (There have not been any ‘call to account’ petitions since the adoption of the scheme in 2010.)

2.8 The scheme requires an update to make the new arrangements clear, and is attached at Appendix 2 with changes marked in red.

Regulatory Committee Membership

3.1 The Regulatory Committee was formed by combining the former Planning Committee, Rights of Way Committee and licencing Committee on 24 July 2014. A membership of 15 was created, and over time the management of a committee of this size have been raised, with suggestions being made to reduce the size to become more operationally effective.

3.2 The Committee is appointed in accordance with political proportionality (the entitlement to seats allocated to each political group must bear the same proportion as the membership of the County Council), with places allocated as follows:

Committee size	Conservative	Liberal Democrat	Green	Labour
15	10	4	1	0

3.3 A suggested reduction in the size of the committee to 10 or 12 members would see proportionality change as follows:

Committee size	Conservative	Liberal Democrat	Green	Labour
10	7	2	1	0
12	8	3	1	0

3.4 Based on the information above, members are asked to consider the appropriate size of the Regulatory Committee for the future, to be approved by County Council as an amendment to the Committee’s terms of reference. In addition, any recommendation to reduce the size of the Committee would be accompanied by nominations to the new

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Committee being sought by Group Leaders for approval at the County Council meeting on 22 February 2018.

Pension Fund Committee - Membership

- 4.1 The Terms of Reference for the Pension Fund Committee allow for a committee to have a membership of 9 members comprising 5 members of the County Council, (not more than one being a member of the Cabinet), 1 nominated by Bournemouth Borough Council, 1 nominated by the Borough of Poole and 1 representing Dorset District Councils, plus 1 scheme member nominated by the unions.
- 4.2 To maintain the effectiveness of the Pension Fund Committee, based on the expertise and knowledge of members currently appointed to the committee, it is suggested that the membership requirements be amended to enable multiple Cabinet members to represent the County Council. At present Cllrs Ferrari and Cllrs Wharf are both appointed to the Committee and are also appointed to the Cabinet. Following Cllr Wharf's recent appointment to the Cabinet this has raised the matter for consideration. It is therefore proposed that the membership wording be amended to read '*not more than two being a member of the Cabinet*'.
- 4.3 The division of executive and non-executive functions is part of the Local Authorities Functions Regulations which have been variously updated since 2000. The list of functions not to be the responsibility of an authority's executive includes "functions relating to pensions". The Council has taken the view in the past that functions relating to pensions cannot therefore be discharged by the Cabinet as a whole but that a member of the Cabinet can participate on a committee dealing with pensions matters. If an arrangement where two of the five County Council members on the Committee are members of the Cabinet there remains a non-executive member majority.

Next Steps

5. The Audit and Governance Committee is asked to consider the proposed changes in the report, and to recommend changes through the constitutional review process (where applicable) for decision by the County Council in February 2018.

Jonathan Mair
Monitoring Officer
January 2018

Petitions Scheme Feedback

	Comment
Frequency of Meetings	Happy with the frequency of the meetings.
	Because of the difficulty in Member involvement we seem to “save them up” with 3 on one day shortly – fills a day! not useful in Highways issues as we can only suggest an outcome eg TRO to the relevant Committee anyway who will repeat the process in some cases – as above.
Threshold	I would seek a threshold for petitions that means historical numbers of petitions are considered whatever that threshold might be.
	I feel 50 signatures is too low when it comes to petitions. Petition panels should be based on 300 signatures unless the local parish council also supports the petition. In this case, I believe a panel should be set up with 150 signatures.
	Very time consuming, in Highways cases we cannot authorise a TRO (if required) only pass to the relevant Cmte. Not the best use of Members times. Threshold is very low particularly with Social Media, would suggest increase to 100-200 names. Difficult to find “free” Members.
	I have not as yet sat on an appeals panel but am doing so for the first time next week. So from my limited knowledge the scheme seems good to me. It does mean we are able to react reasonably quickly to residents. They are able to see that their request is being taken seriously and is following a democratic process. There are, I would have thought, sufficient members to cover the panels in a reasonable time frame.
	Currently only 50 signatures are required for a petition to meet criteria for discussion at panel – could this be raised? Or is this just moving the goal posts? I have a slight reservation with focusing on the signature criteria as this could inadvertently create a post code lottery i.e. the higher the local population that easier it will be get signatures - even if 50+ signatures are gathered, this may only represent a small proportion of the overall community – vice versa, the petition with 49 signatures or less could represent the view of a low population area or all residents of a road for example.
Quality of Outcomes	I believe better decisions are made.
General	As I have not as yet attended a panel, any reply would be uninformed and speculative , and perhaps my only thought would be how embarrassing it is that members have found it difficult to commit to dates on offer.
	I would be interested in the historical number of petitions raised. The aim of a mechanism to deal with petitions is to raise the profile of issues considered significant by large numbers of the community to ensure they are considered. The process is not to ensure that every issue is escalated. Technology has made the thresholds easier to reach meaning that important issues get subsumed by the increased number.
	I feel that the panels do offer our residents a more direct line to participate in matters that concerns them. The panel process offers this in a more direct route than previously. There is time for a more personal one to one with officers and petitioners which, in my opinion, brings out better decisions. As I've seen on a previous panel.
	I have had a look at this, but do not have any comments to offer as to how things could be done differently.

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	<p>I feel that for petitions to be taken to panel meeting then they should at least have 'approval' from the relevant town or parish council and/or the relevant County Councillor.</p>
Suggestion for Future	<p>We know that petitions will be delivered at full council meetings. If we set up two panel sessions a month after each council meeting and asked everyone to volunteer for one session everything would be in place and so easier for us to respond promptly</p>
	<p>Increase threshold, Officer Delegation</p>
	<p>I also wonder whether it is possible to only accept petitions where the request being made is clear. Petitions my team are involved with typically centre around a desire to make something 'safer'... this implies that the situation is already inherently unsafe when in the vast majority of cases, safety is relative and dependent upon peoples' decisions and behaviours. A petitioner 'campaigning' to improve safety is also likely to gather support relatively easily i.e. who would say 'no, I don't want this road to be made safer'.</p> <p>Could a petition go through an initial 'filter' i.e. officer assess whether what is being request meets with basic criteria – if basic criteria is assessed then a decision is made on whether a panel meeting is warranted.</p> <p>Or, could a meeting take place on site with the lead petitioner and local member with the relevant officer(s) to discuss the situation – it could be that small-scale measures satisfy or at the very least appease the petitioner.</p> <p>Some petitions have been put together in response to an unsatisfactory response by officers i.e. a 'no' – perhaps some officers suggest that customer arranges a petition... this is something that I can reiterate internally.</p> <p>Also – I have asked my counterparts across the south west and they have not reported an increase in the number of petitions raised in the way that we continue to experience. I have heard of elected members encouraging residents to raise a petition... this should not be a 'go-to' suggestion for members.</p>

Dorset County Council Petitions Scheme

If you wish to petition Dorset County Council you can either:

- Send the Council a paper petition signed by those who support your petition. The petition should be sent to: *Democratic Services, Dorset County Council, County Hall, Colliton Park, Dorchester, DT1 1XJ - 01305 225113 - e.a.eaton@dorsetcc.gov.uk*
- Use the e-petitioning facility on Dorset for You to organise your own petition or to support someone else's petition - <https://epetitions.dorsetforyou.com/list-petitions>

What are the guidelines for submitting a petition?

Petitions submitted to the council **must** include:

- A clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the council to take.
- All or some of the following details of any person supporting the petition; name, address, postcode, signature, email address.
- The total number of signatures collected.

Petitions should be accompanied by contact details, including an address, for the petition organiser.

The Council will respond to petitions organised and supported by people who live, work or study in Dorset. Most petitions will be of relevance only to local people. Some petitions will be of relevance to visitors and some will cross local authority boundaries and in such cases those from outside Dorset will be able to participate. In addition, children are welcome to petition the Council about an issue of particular concern to them.

Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. 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 the revised timescale which will apply. If a petition does not follow the guidelines set out above, the council may decide not to do anything further with it. In that case, we will write to you to explain the reasons. Decisions about whether a petition is vexatious, abusive or otherwise inappropriate will be made by the Monitoring Officer.

What will the Council do when it receives my petition?

An acknowledgement will be sent to the petition organiser within 5 working days of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again. It will also be published on our website.

- If your petition is supported by 50 or more signatories then it will be considered by a Petitions Panel (**comprising the relevant Cabinet member(s) and local County Councillor(s)**).
- If your petition is supported by ~~4,000~~ 4250 (**1% of the total population of Dorset**) or more signatories it will be scheduled for a debate at the next meeting of the full County Council.
- ~~Alternatively a petition can call for a senior officer of the Council to be called to account at a meeting of the Audit and Governance Committee. This requires 500 or more signatures.~~

If we can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed. The acknowledgment will confirm the arrangements for what will happen with the petition and tell you when and where a meeting will take place. We will aim for your petition to be dealt with within 6 weeks of receipt.

If the petition applies to a planning or rights of way application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, other procedures apply. **In addition, if the petition relates to a Traffic Regulation Order the approval of the relevant Town or Parish Council will be sought prior to consideration.**

To ensure that people know what we are doing in response to the petitions they will be published on our website when they are reported to the Council or a committee, except in cases where this would be inappropriate. We will also keep available for inspection at our

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offices all correspondence relating to the petition (all personal details will be removed). All personal details are kept securely and are not passed to any third party for any purpose.

How will the Council respond to petitions?

Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:

- taking the action requested in the petition
- considering the petition at a council meeting
- holding an inquiry into the matter
- undertaking research into the matter
- holding a public meeting
- holding a consultation
- holding a meeting with petitioners
- referring the petition for consideration by the council's audit and governance committee
- calling a referendum
- writing to the petition organiser setting out the panel's views
- any other action that is considered appropriate

If your petition is about something that a different council or organisation is responsible for we will give consideration to what the best method is for responding to it. This might consist of simply forwarding the petition to the other council, but could involve other steps. In any event we will always notify you of the action we have taken.

Consideration at Full Council, ~~Committees~~ and ~~Petition Panels~~

If your petition is referred to the Council, ~~the Audit and Governance Committee~~ or a Petitions Panel, we will endeavour to consider the petition as soon as practicable. The petition organiser will be given ten minutes to present the petition at the meeting and the petition will then be discussed by councillors for a maximum of 15 minutes (full Council or committees) or as required (panels). A decision will then be made as to how to respond to the petition at this meeting. Where the Cabinet is required to make a decision ~~after Council or Panel consideration~~, a recommendation will be made to the next available meeting. The petition organiser will receive written confirmation of this decision.

Officer evidence

Officers will be required to produce background information for any petition submitted. ~~However, if your petition contains at least 500 signatures and requests a senior officer to be held to account, the relevant senior officer will give evidence at a public meeting of the council's Audit and Governance Committee. You should be aware that it may be more appropriate for another officer to give evidence instead of any officer named in the petition. The Committee may also decide to call a relevant Cabinet member(s) and/or councillor(s) to attend the meeting.~~

E-petitions

E-petitions must follow the same guidelines as paper petitions. The petition organiser will need to provide us with their name, postal address and email address. You will also need to decide how long you would like your petition to be open for signatures, up to a maximum of 12 months. When you create an e-petition, it may take 5 days before it is published online. If we feel we cannot publish your petition for some reason, we will contact you within this time to explain. You will be able to change and resubmit your petition if you wish. When an e-petition has closed for signature, it will automatically be submitted to Democratic Services. You will then receive an acknowledgement within 5 working days.