



Report of the Head of Scrutiny and Member Development

Overview and Scrutiny Committee

Date: 11th March 2008

Subject: Local Petitions and Calls for Action - Consultation

Electoral Wards Affected:

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

1.0 INTRODUCTION

1.1 The purpose of this report is to inform Members of the Overview and Scrutiny Committee of the new provisions in the Local Government and Public Involvement in Health Act 2007 regarding the 'Councillor Call for Action' and to seek Members' responses to proposals set out in a consultation document issued by the Department for Communities and Local Government entitled "Local Petitions and Calls for Action Consultation"

2.0 BACKGROUND

2.1 The Local Government and Public Involvement in Health Act 2007, which was enacted on 30th October 2007, contains new provisions which will enable Councillors to refer matters to Overview and Scrutiny Committees. The relevant provisions have not yet come into force but it is anticipated that they will be implemented in April 2008. The purpose behind the new provisions is to give support to all Councillors to raise matters for their constituents.

2.2 The so called "Community Call for Action" which was contained in the Police and Justice Act 2006 has been aligned with the provisions in the 2007 Act.

2.3 Key features of the Councillor Call for Action are as follows:

- The power to initiate a Councillor Call for Action rests with the local Councillor
- It will be up to individual Councillors to determine what matters to take forward and they may decide that they do not wish to take a matter forward –

in that event, there is no right of appeal against that decision available to constituents.

- A Councillor Call for Action may cover any local government matter relating to any function of the authority and affecting the Councillor's ward or constituents.

2.4 Whilst a councilor may refer the matter for consideration by scrutiny, it will be up to the scrutiny board to determine whether or not to hold a scrutiny inquiry into the matter and respond.

2.5 The consultation document sets out more detailed proposals as to how the Councillor Call for Action might operate and also sets out proposals for a legislative framework for handling local petitions. (Appendix 1)

2.6 Responses to the consultation document are invited by 20th March 2008. The consultation questions, together with draft responses, are provided below for consideration.

3.0 MAIN ISSUES

3.1 Local Petitions

The government is consulting on placing a duty on local authorities to respond to local petitions where they have achieved sufficient local support.

Question

The Government believes there should be a statutory duty on local authorities to respond to local petitions. What conditions must be met before a local authority is required to respond formally to a petition? (paragraph 19)

Suggested Response

Petitions have been used by the public for many years as a way of drawing attention to an issue of concern. We believe that authorities should be required to respond to any petition that asks them to consider any issue which falls within their functions.

We consider a response to be more substantial than simple acknowledgement of receipt. We consider this to be basic customer care. However flexibility must remain with the local authority as to how a petition is dealt with internally and what (beyond simple acknowledgement) the level of response is. On occasions it would be appropriate for an individual elected Member to respond to a petition rather than the 'body corporate'.

On some occasions a response to a petition would be "no"

The Government already has a tried and tested model on its own well-known Prime Minister's Downing Street petition website.

The acceptable use policy governing petitions received on this website is set out at <http://petitions.pm.gov.uk/terms>.

It provides that petitions are not accepted if they are similar to or overlap with existing petitions; ask for things outside the remit or powers of the PM or

Government; are statements that don't actually request any action or are impossible to understand or amount to advertisements; humorous petitions or ones which have no point about government policy or which are about a purely personal issue.

Also excluded are party political issues; potentially libelous, false or defamatory statements; information which may be protected by an injunction or court order; information which is potentially confidential, commercially sensitive or which may cause personal distress or loss; commercial endorsement, promotion of any product service or publication; URLs or web links since they cannot be vetted; names of individual officers of public bodies unless they are part of the senior management of the organisation; names of family members of elected representatives or officials of public bodies; names of individuals or information where they may be identified in relation to criminal accusations; language which is offensive, intemperate or provocative.

A similar code governing acceptance of petitions should be included in any statutory framework since all the matters that the Government would consider as part of their acceptable use policy for petitions will be equally relevant when local authorities receive petitions.

We would not support any external appeals mechanism for aggrieved parties should a petition be rejected other than a council's normal complaints procedure.

Question

In particular, how should we define the level of support required before a petition must get a formal, substantive response?

By a fixed number of signatures?

By a percentage of the electorate in the area?

By a hybrid of the two?

Or in some other way?

Suggested Response

As most petitions are likely to relate to local rather than authority wide matters, a fixed number of signatures is preferable to a percentage of the population.

However we would be loath to define a number. Our experiences have shown that on occasions fewer than 25 people have signed a petition because of its very local nature.

It would send out a negative message to citizens if we were to say that their concern was not legitimate because it failed to meet an arbitrary agreed threshold.

3.2 Calls For Action

Question

What if any matters should be excluded from the Councillor Call for Action?

Suggested Response

There are already a number of matters that are excluded from scrutiny. Some of these are excluded by legislation;

Quasi-judicial decisions such as planning and licensing applications

Some by local rules;

Employment issues

Statutory processes

School admission appeals

Issues currently being investigated by Audit/Ombudsman/ongoing legal

Proceedings/formal complaints procedure

The same restrictions should apply

We are also of the view that the cases of individuals should be excluded.

Question

What guidance should government provide on the operation of the Councillor Call for Action?

Suggested Response

Many authorities including Leeds have operated a Councillor Call for Action since 2000 by virtue of the fact of allowing 'requests for scrutiny from any source' (including elected Members). In Leeds these arrangements are detailed within the Council's Constitution.

We would not support any additional guidance which imposed an unnecessary layer of bureaucracy on the process.

Authorities should be allowed to make their own arrangements as to how Inquiries are conducted and not as suggested in paragraph 39 impose the requirement for joint committees in some circumstances.

Paragraph 43 implies that petitions are Community Calls for Action and therefore should come to Scrutiny. We would oppose the introduction of such directives as often petitions are best dealt with and quicker dealt with by the appropriate decision maker. We believe authorities should have local discretion as to how petitions are dealt with.

3.3 Overall

Question

Taken together, would petitions and Call for Action sufficiently empower communities to intervene with their elected representatives? Should we contemplate other measures?

Suggested Response

There are various ways in which the public can raise issues of concern with Councils. Some Councils, including Leeds have the facility for citizens to bring 'deputations' to Council. The most common method is via local Councillors. We are of the view that no additional measures are required of a statutory nature.

Question

Do you have other views on the operation of the new duty to respond to petitions and the Call for Action?

Suggested Response

The overriding feeling is that authorities should be allowed to make their own arrangements for ensuring petitions are responded to and Councillors have the right to ask for a matter to be scrutinised. Government regulation is not required to affect this

4.0 RECOMMENDATION

4.1 The Committee is requested to;

- (i) Consider the suggested responses to the questions posed by the Government's consultation.
- (ii) Approve the formal response to be sent to Government.