

**EXPLANATORY MEMORANDUM TO**  
**THE LOCAL AUTHORITIES (PETITIONS) (ENGLAND) ORDER 2010**

**2010 No. 898**

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
  - 2.1 To specify matters which are not to be regarded as relating to the functions of principal local authorities in England, thus meaning that petitions relating to those matters will not fall to be considered under the statutory petitions scheme required by Chapter 2 of Part 1 of the Local Democracy, Economic Development and Construction Act 2009 (“the 2009 Act”).
  - 2.2 To stipulate the maximum threshold which principal local authorities in England may set for the number of signatures required on a petition to trigger a debate of the full council.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 This is the first use of the enabling power in section 14(4) of the 2009 Act.
4. **Legislative Context**
  - 4.1 Chapter 2 of Part 1 of the 2009 Act imposes a duty on principal local authorities in England and Wales (“Authorities”) to make a scheme for the handling of petitions made to the authority by people who live, work or study in the authority’s area. Principal local authorities are defined in section 10(3) of the 2009 Act.
  - 4.2 Section 14 of the 2009 Act requires Authorities to take steps in response to petitions they receive which relate to “relevant matters”. Relevant matter is defined in section 14(2) and means a matter relating to the function of a principal local authority, or in the case of top-tier and unitary authorities in England, matters relating to the improvement of the economic, social or environmental well-being of the Authority’s area to which any of the principal local authority’s partner authorities could contribute. Partner authorities are defined in section 104 of the Local Government and Public Involvement in Health Act 2007 and are the bodies who may participate in Local Area Agreements with principal local authorities.
  - 4.3 Examples of the sorts of step contemplated are set out in section 14(6) and include considering the petition at a meeting of the Authority, holding a public meeting, commissioning research or providing a written response to the petition organiser.
  - 4.4 Section 14(4) enables the appropriate national authority (defined in section 22(1) of the 2009 Act as the Secretary of State, in relation to England) to specify

matters which are not to be regarded as “relevant matters”. The consequence of being so specified is that Authorities will not be required to take steps under section 14 in response to any such petition received. They may still be required to respond in accordance with other legislative provisions.

4.5 Ministers gave a commitment to Parliament to exercise the power in section 14(4) so as to exclude planning and licensing decisions, and to keep other exclusions to a minimum (see Hansard HoL Debates 17th March 2009 columns 198 and 199).

4.6 Section 15 of the Act requires Authorities to make provision within their statutory petition scheme for petitions signed by a specified number of persons who live, work or study in the Authority’s area to trigger the holding of a debate at a meeting of the Authority. Section 19(3)(a) of the Act provides that provision in an order made under section 19(1) as to what a petition scheme must contain, includes the number of signatures to be so specified.

## **5. Territorial Extent and Application**

5.1 This instrument applies in relation to England.

## **6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

- *What is being done and why*

7.1 The Local Democracy, Economic Development and Construction Act 2009 had as one of its aims the reinvigoration of local democracy, putting local authorities at the forefront of the drive to reconnect people with public and political decision-making.

7.2 While the Place Survey<sup>1</sup> shows that 80 per cent of people are happy with the area they live in, satisfaction with the way their council runs things is low at 45 per cent. The perception in communities that people can influence decisions that affect their local area was found to be even lower. The duty to respond to petitions was conceived as one mechanism for addressing this. Signing a petition is one way for citizens to express their concerns and priorities to their local authority and the Citizenship Survey shows that petitions are the most popular and recognised form of civic action<sup>2</sup>.

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<sup>1</sup> Place Survey: England – Headline Results 2008 (Revised), <http://www.communities.gov.uk/publications/corporate/statistics/placesurvey2008>

<sup>2</sup> 60 per cent of those people who engaged in an act of civic participation in 2007-2008 signed a petition, Citizenship Survey, 2007-2008

7.3 Some local authorities already have well developed processes for responding to petitions and approach them as an opportunity to listen to the community and demonstrate strong local leadership. However, this is not the case across the board. Communities and Local Government examined all English local authority websites in April 2008, and found that only one in five councils make details about how to submit a petition publicly available. In a climate where only 39 per cent<sup>3</sup> of people feel they can influence decisions in their local area and in some areas only 48 per cent<sup>4</sup> feel that their council keeps them well informed about the services it provides, the Government considered it to be advantageous to ensure people can easily find out how to express their views about public services to local decision makers.

7.4 The Government's view is that local people are more likely to participate in matters affecting their community if they are sure that their views will be listened to. In particular, they are more likely to organise or sign a petition if they are confident that it will be treated seriously, and that a response is guaranteed. Evidence from a systematic review of petitions reveals that petitions have the potential to empower individuals, to generate activity at the community level, and to impact on decision making. The extent to which petitions are able to realise this potential is largely dependent on the degree to which they are linked to a meaningful response mechanism.<sup>5</sup>

7.5 Chapter 2 of Part 1 of the Act introduces a new duty on principal local authorities to take steps in response to petitions on local matters. Local authorities will be required to have a petition scheme which sets out clearly what local people should do in order to make their feelings known on local issues. However, the Government is aware that there are some existing processes where there is already a mechanism for dealing with representations from local people. For instance, processes for dealing with planning and licensing applications, reviews and appeals are established by primary and secondary legislation. There are also statutory appeals processes relating to, for example, council tax and non-domestic rates.

7.6 The intention of the Government in making this Order is to ensure that Authorities are required to take steps in response to petitions where this adds value, rather than merely duplicating existing mechanisms for consideration of issues. This Order therefore excludes issues relating to planning and licensing decisions from the scope of the petitions scheme. It also excludes issues relating to the dealings of individuals or entities, where there is already a statutory right to a review or appeal (other than the right to complain to the Local Government Ombudsman).

7.7 This Order provides that the maximum figure which may be specified in an Authority's petition scheme to trigger a debate of the full council, should be no greater than 5% of the local authority's population. This is not precisely 5% of the number of people who are eligible to sign a petition. A signature counts if it is given by a person who lives, works or studies in a local authority's area. The Government's

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<sup>3</sup> Citizenship Survey April to December 2007

<sup>4</sup> Place Survey

<sup>5</sup> Pratchett et al. (2008) *Empowering communities to influence local decision making - A systematic review of the evidence*, London: CLG.

view is that by specifying a maximum figure which is easy for an Authority to calculate, and not subject to frequent fluctuations, the policy objective that petitions which receive significant support should trigger full council debates will be best achieved.

7.8 The Government's hope is that Authorities will specify figures which are less than 5% of their population. In its view, a balance needs to be struck between the need to ensure that local people are able to place the issues which they think are important firmly on the Authority's agenda, and the need to ensure that the efficient functioning of Authorities is not "hi-jacked" by particular pressure groups. It is satisfied that fixing the maximum figure to be specified at 5% will not place an undue burden on any Authority. In Bristol, for example, it would mean that a petition would require approximately 21,065 signatures to trigger a debate, if the maximum threshold permitted were to be set.

- *Consolidation*

7.9 N/A

## **8. Consultation outcome**

8.1 The Government consulted on a draft version of this order from 2nd December 2009 to 24<sup>th</sup> February 2010<sup>6</sup>. The consultation received 122 responses, 105 of which were from local authorities. The majority of respondents agreed with the categories the Government had excluded in the draft order. Respondents also made suggestions for additional categories that might be excluded in the order. Examples include statutory consultations, complaints to the Local Government Ombudsman, repetitive petitions, petitions containing exempt information and petitions relating to internal disciplinary proceedings. A number of these suggestions are already addressed by provisions in the duty or in the order. Government evaluated those suggestions not already covered and was not persuaded that it was necessary to expand the categories listed in the order. The Government's approach is to keep the greatest number of topics within the scope of local authorities' petition schemes and to exclude only those areas where unnecessary duplication may occur i.e. those areas where there are existing and established mechanisms for communities to express their views. None of the suggestions made fell into this category.

8.2 The consultation also covered the draft statutory guidance to underpin the petitions duty and a draft model petition scheme. Government will consider the views expressed by respondents on these topics, in addition to those expressed on the draft order, and respond to the consultation before the restricted period prior to local government elections.

## **9. Guidance**

9.1 In addition to consulting on a draft of this order, the Government has prepared and consulted on draft statutory guidance and a draft model petition scheme to

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<sup>6</sup> 'Listening to communities: Consultation on draft statutory guidance on the duty to respond to petitions', 2nd December 2009  
<http://www.communities.gov.uk/publications/communities/petitionsresponseconsultation>

support the petitions duty<sup>7</sup>. Government has also supported the development of sector led best practice advice for local authorities. The final statutory guidance will be published before the restricted period prior to local government elections.

## **10. Impact**

10.1 While the petitions duty imposes no cost on business, charities or voluntary bodies, it does ensure that these bodies will be able to express their views to local government and secure a response. It is expected that the national cost to the public sector of responding to petitions will be approximately £4.7 million per year, decreasing over time. These costs arise from increased work for council officers, time at council meetings and overview and scrutiny committees, and set up costs for e-petitions. The estimated cost was arrived at based on sector experience of comparable processes. The costs to local authorities associated with the petitions duty are being fully funded by central government. The total national cost of approximately £4.7 million per annum falls below the threshold requiring the publication of a full Impact Assessment.

## **11. Regulating small business**

11.1 The legislation does not impose any duties on small business.

## **12. Monitoring & review**

12.1 The Government will monitor and evaluate the effectiveness and impact of the petitions duty, in line with its commitment to evidence-based policies and reviews, within three years of implementation of the duty.

## **13. Contact**

Emma Hagan at the Department for Communities and Local Government Tel: 0303 444 2010 or email: [emma.hagan@communities.gsi.gov.uk](mailto:emma.hagan@communities.gsi.gov.uk) can answer any queries regarding the instrument.

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<sup>7</sup> 'Listening to communities: Consultation on draft statutory guidance on the duty to respond to petitions', 2nd December 2009  
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