

Policy and Resources Committee	
Meeting Date	30 November 2022
Report Title	Constitution amend: Petitions scheme
EMT Lead	David Clifford
Head of Service	Head of Policy, Governance and Customer Services – Monitoring Officer
Lead Officer	
Classification	Open
Recommendations	Policy and Resources committee is asked to: 1. Agree the revised petitions scheme at Appendix II and recommend to council its incorporation into the constitution.

1 Purpose of Report and Executive Summary

- 1.1 This report introduces an updated version of the constitutional petitions scheme and sets out the constitution working group's reasons for preferring it to the current version. The report asks to Policy and Resources committee to recommend the updated version to council for adoption.

2 Background

- 2.1 Council voted unanimously in October last year to move to a committee system of governance from the 2022/23 municipal year. At the same meeting, council requested the cross-party working group which had been established to consider this governance change to continue its work in overseeing the detail of the new constitution. Following some recent changes in membership, the working group now comprises Cllrs Baldock (chair), Bonney, Darby, Harrison, Henderson, Ingleton, Simmons and Valentine.
- 2.2 Since the adoption of the new constitution in April and its coming into effect in May, the working group has continued to meet, with a view both to monitoring the working of the new constitution in practice, recommending improvements where necessary, and to working through the 'issues log' of areas of the old constitution which the group previously agreed could benefit from review but which were not essential to implementing the move to the committee system. Most of the items on the issues log have now been resolved, with only the petitions scheme outstanding.
- 2.3 The current petitions scheme, set out in Appendix I, was adopted at a time when councils had a legal obligation to operate such a scheme, and it tries to take account of all the different sorts of petitions which the council may by law be required to deal with. There is no longer a requirement on councils to operate a

general petitions scheme at all, but it is probably good practice in a council which wants to listen to the views of residents to retain one.

- 2.4 There are still statutory provisions on certain types of petition, but because the law on how these should be handled is very specific, it is unnecessary and arguably unhelpful to have these included in a general scheme. The proposed scheme at Appendix II explicitly excludes these types of petition.
- 2.5 The council does not receive a high number of petitions, but nor are they so rare that there is no need for a clear scheme to establish how they will be handled when they are received. In recent years, an average of approximately three petitions have been received each year, and it is more common than not that petition organisers want to take advantage of the council's e-petitions portal.

3 Proposals

- 3.1 In addition to the overcomplication caused by the inclusion of multiple petition types, the current scheme is not especially helpful in establishing the length of time e-petitions can be open to collect signatures or in setting a minimum number of signatures necessary to have the petition discussed at a meeting. The proposed scheme at Appendix II attempts to rectify both of these points, stating that e-petitions will normally remain open for signatures for ten weeks (or less in the event that the subject matter is urgent), and detailing the threshold number of signatures required for a petition to be formally considered.
- 3.2 The constitution working group reviewed these thresholds in some detail, and concluded that any petition gathering less than 200 signatures should receive a response from the relevant director, a petition with between 200 and 1,499 signatures should be formally considered at a meeting of the relevant service committee, and any petition gathering at least 1,500 signatures should be debated at a meeting of the full council.
- 3.3 Under the cabinet system it was sometimes the case that a cabinet member would determine the council's response to a petition. The working group considered whether there should be a similar provision in the new scheme, enabling committee chairs to determine whether a petition with between 200 and 1,499 signatures should be accepted as an item on the committee agenda. The group's ultimate view was that this did not sit well with the absence of individual member decision-making in the committee system, and could result in committee chairs being placed in a difficult position.
- 3.4 The working group also gave detailed consideration to the need for agenda items resulting from petitions, whether at committee meetings or council meetings, to be supported by an officer report setting out the implications of the decision requested by the petition. The group concluded that petitions for consideration at meetings should generally be accompanied by an officer report but without the report proposing a definite response to the petition. The scheme at Appendix II has therefore been written in such a way that the response can come from

members, using motions and amendments to test views and arrive at an agreed position.

- 3.5 The Policy and Resources committee is now **recommended** to agree the revised petitions scheme at Appendix II and recommend it to council for adoption.

4 Alternative Options Considered and Rejected

- 4.1 As set out in Section 2, there is no longer a statutory requirement on councils to operate any general petitions scheme. A legitimate option would therefore be to remove the scheme in its entirety from the constitution. This option was rejected as being incompatible with the council's desire to listen to the views of residents and others who may be affected by its decision-making, and potentially in conflict with the corporate priority of renewing local democracy and making the council fit for the future.
- 4.2 A further legitimate option would be to maintain the current version of the scheme, set out in Appendix I. As explained in Section 2 above, this is now a very old document which tries to accommodate a range of petition types which do not need to be accommodated by a general scheme. This has the effect of overcomplicating the scheme, making it difficult for both petition organisers and officers to interpret. This option has therefore also been rejected.

5 Consultation Undertaken or Proposed

- 5.1 The cross-party constitution working group has given detailed consideration to the proposed scheme set out at Appendix II. Specific points discussed and agreed by the group are highlighted in Section 3 above. Consultation has also taken place with the Democratic Services team, who are responsible for administering the petitions scheme in the first instance, and who believe the proposed scheme would be simpler and more efficient to manage than the current one.

6 Implications

Issue	Implications
Corporate Plan	Adoption of an updated and simplified petitions scheme would support the fourth corporate priority of renewing local democracy and making the council fit for the future.
Financial, Resource and Property	No direct implications identified at this stage. The ability for all petitions being debated by members to be accompanied by an officer report means that members would be fully apprised of the financial implications of any decision resulting from a petition.
Legal, Statutory and Procurement	As set out in the body of the report, there is no longer any statutory obligation on councils to maintain general petition schemes.

Crime and Disorder	No direct implications identified at this stage. The ability for all petitions being debated by members to be accompanied by an officer report means that members would be fully apprised of the relevant implications of any decision resulting from a petition.
Environment and Climate/Ecological Emergency	
Health and Wellbeing	
Safeguarding of Children, Young People and Vulnerable Adults	
Risk Management and Health and Safety	
Equality and Diversity	
Privacy and Data Protection	

7 Appendices

7.1 The following documents are to be published with this report and form part of the report:

- Appendix I: Current petitions scheme
- Appendix II: Proposed petitions scheme

8 Background Papers

8.1 There are no background papers.

CURRENT PETITIONS SCHEME

1. We particularly welcome petitions as one way in which you can let us know your concerns. In this Scheme we set out how the authority will respond to petitions which you send us, how we will acknowledge them, and what we intend to do with the petition.

What is a petition?

2. We treat as a petition any communication which is signed by or sent to us on behalf of a number of people. For practical purposes, we normally set a requirement for at least 10 signatories or petitioners before we treat it as a petition.

Who can petition?

3. Whilst we like to hear from people who live, work or study in Swale, this is not a requirement, and we would take equally seriously a petition from, for example, 10 visitors to the District on the subject of facilities at one of our visitor attractions or leisure facilities.

What should a petition contain?

4. A petition must include the following.

- (i) A clear statement of your concerns and what you want the authority to do. This must relate to something which is our responsibility, or over which we have some direct influence. Where a petition relates to a matter which is the responsibility of another public authority, we will ask the petition organiser whether s/he would like us to redirect the petition to that other authority. We work with a large number of local partners and, where possible, we will work with them to respond to the petition. Where a petition relates to a matter over which the authority has no responsibility or influence, we will return the petition to the petition organiser with an explanation for that decision.
- (ii) The name and contact details of the 'petition-organiser' or someone we can address any correspondence to about the petition. Contact details may be either a postal address or an email address.
- (iii) The names of at least 10 petitioners (which can include the petition organiser). Where the petition is in paper form, this can include an actual signature from each petitioner, but this is not essential. Where the petition is in electronic form, a list of the names of the petitioners will suffice. You may include the addresses of petitioners, which can be useful to the authority (for example, in assessing the degree of local support or opposition to a planning application), but this is not essential. With an e-petition the petition organiser will need to decide how long you would like the petition to be open for signatures. Most petitions are expected to last for six months, but a shorter or longer timeframe can be chosen, up to a maximum of 12 months. Action on an e-petition will only start when it has closed for signature.

(iv) If you want your petition to be debated at a meeting of the Council (a Petition for Debate), or to trigger a public meeting of an at which a specific officer will be required to report (a Petition to hold an Officer to Account), your petition will need to contain a higher number of signatories or petitioners (see below), and be received in good time to be included on the agenda for any given such meeting.

5. If you are submitting the petition in response to our consultation on a specific matter, please identify the matter which it relates to, so that we can ensure that your petition is considered along with original matter.

Who should you send a petition to?

6. Where you submit a petition in response to consultation by the authority, please address it to the return address set out in the consultation invitation. This will ensure that it is reported at the same time as the matter to which it relates is considered.

7. We have appointed a Petitions Officer who is responsible for receiving, managing and reporting all other petitions sent to the authority. For such petitions, please address them to:

The Petitions Officer, Swale Borough Council, Swale House, East Street, Sittingbourne, ME10 3HT, or to petitions@swale.gov.uk.

8. The Petitions Officer will ensure that your petition is acknowledged to the petition organiser and entered on the authority's petitions website ([Swale Petitions website](#)), and that the website is regularly up-dated with information on the progress of your petition. The Petitions Officer can also provide you with advice about how to petition the authority or the progress of your petition, at either of the above addresses or by telephone at 01795 417268.

Types of Petition

9. There are five different types of petition, as set out below. How we deal with a petition depends on which type you submit.

Type of petition	Description and arrangements
Consultation Petitions	<p>These are petitions in response to an invitation from the authority for representations on a particular proposal or application, for example on planning or licensing applications or proposals for parking restrictions or speed limits.</p> <p>Consultation petitions which are received by the response date in the consultation invitation will be reported to a public meeting of the person or body which will be taking the decision on the application or proposal.</p>

<p>Statutory Petitions</p>	<p>Particular Acts of Parliament require the Council to consider petitions, for example a petition for a review of Parish Councils (community governance reviews), or a petition for a directly-elected Mayor (Mayoral referendums).</p> <p>Where a petition is submitted under such a specific statute, we will report it to the next available meeting of the Council in accordance with the statutory requirements.</p>
<p>Petitions for Debate</p>	<p>If you want your petition to be reported to and debated at a meeting of the Council, it must contain at least 1,500 signatories or petitioners.</p> <p>Where a petition relates to a local issue, that is to say, it affects no more than two electoral wards within the authority's area, and it received 200 or more signatories or petitioners, then it will be referred to the relevant Committee.</p>
<p>Petitions to Hold an Officer to Account</p>	<p>If you want your petition to be considered at a meeting where an officer, identified either by name or by post title, will be required to answer questions on the conduct of a particular matter, your petition should contain at least 500 signatories or petitioners (this is reduced to 200 signatories or petitioners where the petition relates to a local issue, affecting no more than two electoral wards within the authority's area).</p> <p>The authority has determined that such petitions must relate to the Chief Executive, a Director, or a Head of Service of the authority, and must be matters for which they may be held responsible.</p> <p>Please note that, where the petition raises issues of competence or misconduct, the petition will be referred to the Chief Executive (or to the Monitoring Officer in respect of the Chief Executive) and will be considered under the authority's Disciplinary Procedures and any relevant legislation, and not under this Petitions Procedure.</p>
<p>Ordinary Petitions</p>	<p>These are petitions which do not come within any of the previous specific types.</p> <p>Please note that petitions which raise issues of possible councillor misconduct will be taken as complaints arising under the Local Government Act 2000 and so will be reported to the Standards Referrals Sub-Committee, rather than considered under this Petitions Procedure.</p>

10. Determining which category of petition a petition that is received falls into, and the validity of the petition, will be a matter for the Petitions Officer, whose decision will be final.

The Petitions Website

11. The authority maintains a petitions website at:
<http://www.swale.gov.uk/epetitions/Browse.aspx>

12. When a petition is received, within five working days the Petitions Officer will open a new public file within the website and will put in that file the subject matter of the petition, its date of receipt and the number of signatories or petitioners. The petition organiser's name and contact details will only be included on the website if they so request. Please note the exceptions in paragraphs 42 to 45, which provide details of petitions which will not be reported.

13. As soon as it is decided who the petition will be considered by within the authority, and when that consideration will occur, this information will be entered on the website at the same time as it is sent to the petition organiser. Once the petition has been considered, the authority's decision will be notified to the petition organiser and put on the website within five working days of that consideration.

14. Petitions are presented on the petition's website in the order in which they are received, but the website can be searched for keywords to identify all petitions relating to a particular topic. All petitions are kept on the website for two years from the date of being posted.

The role of Ward Councillors

15. When a petition is received which relates to a local matter (particularly affecting specific electoral wards), the Petition Officer will send a copy of the petition to each relevant Ward Councillor at the same time as acknowledging receipt of the petition to the petition organiser.

16. When the petition is reported to the person or body within the authority who can take a decision on the matter to which it relates, the relevant Ward Councillor will be invited to attend and to address the decision taker for no more than three minutes (or three minutes each), immediately after the petition organiser.

What happens when a petition is received?

17. Whenever a petition is received, the Petitions Officer will acknowledge receipt to the petition organiser within five working days of receipt.

18. In some cases, the Petitions Officer may be able to resolve the petitioners' request directly, by asking the relevant Committee Chair or officer to take appropriate action. For example, where the petition relates to fly-tipping and the authority can arrange for it to be cleared up directly. Where this is done, the Petitions Officer will ask the petition organiser whether s/he considers that the matter is resolved.

19. Unless the matter has been resolved to the satisfaction of the petition organiser, the Petitions Officer will, within five working days of receipt of the petition, provide a

substantive response to the petition organiser setting out who the petition will be reported to for consideration, when and where that will take place, and inviting the petition organiser to attend that meeting and to address the meeting for up to three minutes on the issue covered by the petition. The invitation to the petition organiser to address the meeting is in addition to any other public speaking rights at that meeting.

20. Whilst we are committed to dealing with petitions promptly, a petition will normally need to be received before the final agenda for that meeting has been determined if it is to be reported to that meeting. This usually means at least 10 working days before a relevant meeting. Where it is necessary to undertake a significant amount of work to collect information and advice to enable the matter to be properly considered, it may be necessary for the Petitions Officer to decide that the petition will be held over until the following meeting of the relevant body. It is therefore suggested that, wherever possible, early contact should be made with the Petitions Officer to ensure that petitions can be reported to the earliest appropriate meeting. The Council has an agreed timetable of meetings and this is available on the council's website.

21. At the same time as responding to the petition organiser, the Petitions Officer will notify party group Leaders and all Ward Councillors of receipt of the petition.

22. Within five working days of receipt of a petition, the Petitions Officer will open a new public file for the petition on the authority's petitions website, setting out the subject matter of the petition, the date of receipt and the number of petitioners. The petition organiser's name and contact details will only be included on the website if they so request.

23. At each stage of the consideration of the petition, the Petitions Officer will ensure that the petitions website is updated within five working days of any decision, to ensure that petitioners can track progress of their petition.

24. The process after this stage differs for the various types of petitions. These processes are set out below.

What happens to a Consultation Petition?

25. Consultations Petitions are submitted in response to an invitation from the Council for representations on a particular proposal or application, such as a planning or licensing application.

26. The petition will be reported to the person or body who will take the decision on the proposal or application at the meeting when they are due to take the decision on that application or proposal. The Council's Constitution defines who will take different types of decision, as set out in the Scheme of Delegations and the terms of Reference of Committees and Sub-Committees. Planning applications are determined by the Planning Committee, subject to any delegations to the Head of Planning Services who is enabled to take

decisions, particularly where there are no objections. In such cases, where a petition supports the planning application, it may be determined by the Head of Planning Services and so not reported at the Planning Committee.

27. Where the petition relates to a matter which is within the delegated power of an officer, unless it is in support of the recommended decision, s/he will not exercise those delegated powers but will automatically refer the matter up to the relevant Committee or Council.

What happens to a Statutory Petition?

28. Particular Acts of Parliament require the Council to consider petitions, for example a petition for a review of Parish Councils, or a petition for a directly-elected Mayor. Where a petition is submitted under such a specific statute, we will report it to the next available meeting of the Council in accordance with the statutory requirements.

What happens to Petitions for Debate?

29. Petitions for Debate that reach the required threshold of signatures will be reported to the next convenient meeting of Council. Petitions will not be considered at the Annual Meeting of Council, the budget setting meeting of Council or at Extraordinary Meetings of Council, which are not convened to consider the subject matter of the petition.

30. The petition organiser will be invited to address the meeting for up to three minutes on the subject of the petition. They are entitled to send a substitute if they are unable to attend or otherwise unable to address the meeting.

What happens to a Petition to Hold an Officer to Account?

31. Petitions to hold an officer to account that are a matter for the Council and which have reached the required threshold of signatures, will be reported to the next convenient meeting of the relevant Committee.

32. In advance of the Committee meeting, the petition organiser will be invited to submit a list of questions which s/he would like put to the officer at the meeting. These questions will be provided to the Chair of the Committee, who will decide whether they are appropriate, and to the officer concerned, in advance of the meeting.

33. At the meeting, the Chair will invite the petition organiser (or a substitute of their choosing) to address the Committee for a maximum of three minutes on the issue, and the relevant officer will then be required to report to the Committee in relation to the conduct of the subject matter of the petition. Members of the Committee may question the officer, and the Chair may invite the petition organiser to suggest questions for him/her to put to the officer.

What happens to an Ordinary Petition?

34. The Petitions Officer will arrange for each Ordinary petition to be reported to the next convenient meeting of the Council or of a Committee or Sub-Committee of Council which has the power to take a decision on the matter.

35. At the meeting, when the matter to which the petition relates is considered:

(i) petitions which do not relate to an ordinary item of business will be considered before the normal business of the meeting, and will be considered in the order in which they were received, unless the Chair at the meeting determines otherwise. A maximum of 30 minutes will be allowed at each meeting for considering such petitions, and any petitions not reached in the time allowed will be referred to the relevant Committee Chair for consideration or deferred until the next meeting;

(ii) any petitions relevant to particular items of business, such as petitions relating to planning applications, will be taken together with that item of business, in the normal order of business;

(iii) the Chair of the meeting may invite a relevant officer to set out the background to the issue before inviting the petition organiser to address him/her for up to three minutes. The Chair may then ask questions of the petition organiser, and will then invite any relevant Ward Councillors present to address him/her on the matter for up to three minutes (each);

(iv) the Chair will then invite a relevant officer(s) to advise him/her/the meeting, after which the matter will be open for debate among members of the decision-making body.

36. At each stage, the Petitions Officer will enter the relevant information on the website at the same time as it is sent to the petition organiser. As with other petitions, the petition and what happens to it will remain on the Council's website for two years from the date of posting.

The role of the Petition Organiser

37. The petition organiser will receive acknowledgement of receipt of the petition within two working days of its receipt by the authority.

38. Where the petition is not accepted for consideration, the petition organiser will be advised by the Petitions Officer of the rejection and the grounds for such rejection.

39. Where the petition is accepted for consideration, the petition organiser will be advised by the Petitions Officer within five working days of receipt by the authority as to whom the petition will be considered by, and the date, time and place of the meeting at which it will be considered, and will be invited to address the meeting for up to three minutes. The meeting may then ask the petition organiser questions on the subject matter of the petition.

40. The petition organiser may nominate another person to address the meeting and to answer any questions on the matter.

41. The petition organiser will be regularly informed by the Petitions Officer of any decisions in respect of the petition, and will be formally notified of the outcome of the petition's consideration within five working days of such decision.

Petitions which will not be reported

42. As well as petitions where the threshold number of signatures has not been reached, or that do not relate to something which is the responsibility of the authority or over which the authority has some influence, the following petitions will also not be reported.

43. **Duplicate Petitions:** where more than one petition is received in time for a particular meeting, each supporting the same outcome on one matter, each petition organiser will be treated as an independent petition organiser, but only the petition organiser of the first petition to be received will be invited to address the relevant meeting.

44. **Repeat Petitions:** a petition will not normally be considered where they are received within six months of another petition being considered by the authority on the same matter.

45. **Rejected Petitions:** petitions will not be reported if, in the opinion of the Petitions Officer, they are rude, offensive, vexatious, defamatory, scurrilous or time-wasting.

Appendix II

PROPOSED PETITIONS SCHEME

Introduction

The council welcomes petitions. We recognise that petitions are one way in which people can let us know their concerns.

Anyone who lives, works or studies in Swale may organise or sign a petition. This includes people under the age of 18.

You can either organise the petition yourself and submit a paper list of signatures to the council, or you can request the council to set up an e-petition, which collects signatures online.

All e-petitions normally remain open for new signatures for ten weeks from the go-live date, although this can be reduced in the event that the subject matter of the petition is urgent.

Before you submit your petition, please read our guidance in the next sections.

What should I include in my petition?

You must include a clear, concise statement covering the subject of the petition and what you want the council to do. The statement must relate to the functions, powers or duties of the council. Any action you request will only be considered if it would be lawful for the council to undertake.

The petition must also include the:

- name, address, telephone number and email address of the petition organiser; and
- name, address and signature of any person supporting the petition (these are collected automatically in the case of e-petitions).

We will not publish the petition organiser's or any signatories' contact details on the council's website but we will publish the petition.

It is important that you follow this guidance. The council may choose to take no action on a petition if important details are missing. In this case, we will write to you to explain the reasons and give you the opportunity to amend the petition.

What types of petitions are excluded?

We will not take action on any petition or requested e-petition that is:

- vexatious;
- abusive;

- otherwise inappropriate; or
- does not relate directly to the council's functions, responsibility or powers.

The proper officer will decide if a petition fits these categories. If we reject your petition for any of the above reasons, we will notify you in our acknowledgement letter.

This scheme does not apply to:

- petitions relating to a planning or licensing application, which will be referred to the relevant decision making body;
- statutory petitions (for example requesting a referendum on having a directly elected mayor), which will be dealt with in accordance with the relevant statutory scheme;
- petitions submitted as part of a consultation process being carried out by the council, in which case the petition will be considered by the relevant decision making body as part of the consultation; or
- petitions relating to matters where other review or appeal procedures exist, e.g. a review of council tax banding.

This scheme does not apply to petitions on the same or similar topic as ones addressed by the council in the last six months. In this case we will acknowledge receipt of your petition and include details of our response to similar petitions.

Where we are still considering a petition on the same or similar topic, we will amalgamate the petitions.

We will send details of excluded petitions that directly affect wards to the councillors representing those wards.

What the council will do with your petition

We will write to you to acknowledge your petition within 10 working days of receiving it. We will let you know what we plan to do with the petition and when you can expect to hear from us again. If the petition needs further investigation, we will tell you the steps we plan to take.

Your petition will be published on our website, except in cases where this would be inappropriate.

Where the subject matter of the petition affects particular wards, the councillors representing those wards will be notified.

The way in which your petition is considered by the council will depend on the number of signatories to the petition, as follows:

- Fewer than 200 signatories: Response from the relevant director.
- Between 200 and 1,499 signatories: Referred to a meeting of the most relevant service committee.

- More than 1,500 signatories: Referred to a meeting of the full council.

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

- taking the action requested in the petition;
- considering the matter at a meeting of the council or a committee;
- holding a public meeting;
- holding a meeting with petitioners or the petition organiser;
- writing to the petition organiser setting out the council's views about the request in the petition;
- considering the matter as part of a consultation process; or
- taking no further action on the matter.

Considering a petition at a meeting

Where the petition is referred to the full council or to a service committee, the petition organiser (or any person authorised by them) will, if they so wish, be given a period not exceeding three minutes to present the petition at the meeting. The petition will then be discussed by councillors.

We will contact the petition organiser before the meeting to establish whether they wish to present the petition at the meeting in the manner described above.

In addition to these steps, the council will consider all the specific actions it can potentially take on the issues highlighted in a petition.

If a petition falling within the scheme contains 1,500 signatures or more, it will automatically be referred to the full council for debate. The council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible, and consideration will then take place at the next available meeting.

When a petition is to be considered by a committee or the full council, it will generally be accompanied by an officer report setting out any financial and non-financial implications arising from decisions which could be taken in the light of it. This report will not recommend a particular course of action.

Councillors will decide how to respond to the petition at the meeting. They may decide to support the action the petition requests, or not. A motion suggesting a formal response to the petition shall be proposed and seconded at the meeting and dealt with under the normal rules of debate, except that notice of motions and amendments will not be required. Any such motion must respond explicitly to the request in the petition i.e. that part of the petition which asks the council to take some form of action.

Alternatively, councillors may refer the matter to a different committee or an officer for further consideration. The petition organiser will receive written confirmation of this decision.

How to submit a petition

E-petitions

[Submission details to be inserted]

Paper petitions

[Submission details to be inserted]