

# **LOCAL DEMOCRACY, ECONOMIC DEVELOPMENT AND CONSTRUCTION ACT 2009**

---

## **EXPLANATORY NOTES**

### **COMMENTARY**

#### **Part 1: Democracy and Involvement**

##### **Background**

##### *Chapter 2: Petitions to Local Authorities*

##### **Summary and Background**

35. **Section 10** places duties on principal local authorities in England and Wales in relation to electronic petitions signed by those who live, work or study in the local area. **Section 11** requires principal authorities to make, publicise and comply with a scheme for handling both paper and electronic petitions. The intention of this Chapter is to make local decision-making in relation to petitions made to principal local authorities more transparent, by requiring them to respond to petitions which meet certain criteria, and making the response to petitions publicly available.

##### *Section 10 – Electronic petitions*

36. **Section 10** requires principal local authorities to provide a facility for people to make petitions electronically. Principal local authorities are defined in *subsection (3)*.

##### *Section 11 – Petition scheme*

37. **Section 11** requires principal local authorities to make, publicise and comply with a scheme for handling both paper and electronic petitions. *Subsection (7)* makes it clear that existing powers and duties relating to petitions continue unaffected by the provisions in this Chapter.

##### *Section 12 – Petitions to which a scheme must apply*

38. **Section 12** makes provision about the petitions to which a petition scheme must apply. These are petitions which:
- request the authority to take action or cease taking action;
  - are signed by at least the number of people specified in the petition scheme;
  - are not made under any other enactment. Petitions made successfully under other statutory provisions – for example, a petition requiring a local authority to hold a referendum on executive arrangements, pursuant to regulations made under

section 34 of the Local Government Act 2000 do not come within the petition scheme; and

- if made in electronic form, are made using the principal local authority's e-petitions facility.

What amounts to "signature" for the purposes of an e-petition is a matter to be specified by authorities in their schemes. It may be, for example, that an authority will specify that entering an email address will constitute "signature" for this purpose.

### ***Section 13 – Requirement to acknowledge petitions***

39. **Section 13** requires petition schemes to ensure that petitions are acknowledged in writing within a time specified in the scheme. The acknowledgement must say what the authority intends to do in response to the petition. For example, if an authority proposes to do whatever it is called on to do by the petition, it may be that a single letter confirming this will be sufficient.

### ***Section 14 – Requirement to take steps***

40. **Section 14** requires principal local authorities to take one or more steps in response to petitions which meet the criteria set out in *subsections (1) and (2)* and are therefore "active" petitions. Authorities in England and Wales must take one or more substantive steps in response to a petition which relates to the authority's functions. In England, principal authorities other than non-unitary district councils must also take steps in response to petitions relating to an improvement in the local economic, social or environmental well-being to which any of the partner authorities could contribute.
41. There is no duty to take any substantive step in relation to petitions which are vexatious, abusive or otherwise inappropriate to be dealt with. The appropriate national authority has power to make an order to provide that certain principal local authority functions are excluded, so that petitions on these subjects would not be "active".
42. *Subsection (6)* sets out some examples of what the substantive steps might be and requires principal authorities to ensure that their petitions schemes include as a minimum all the listed examples as possibilities. *Subsection (7)* ensures that the petition organiser is told what steps will be taken, and that this information must be publicly available online unless it is inappropriate because, for example, it would breach someone's right to privacy.

### ***Section 15 – Requirement to debate***

43. **Section 15** gives an automatic right for the matter raised in a petition to be debated by the full council if more than a specified number of people have signed it. The trigger number must be specified in the petition scheme. The appropriate national authority has the power to issue guidance as to the threshold figure which is appropriate, to specify by order a threshold figure applicable to all principal authorities, or to direct a principal authority to amend its petitions scheme, including the threshold specified in it.

### ***Section 16 – Requirement to call officer to account***

44. **Section 16** provides that certain senior officers of a principal local authority can be called to account at a public meeting. It is up to principal authorities to determine which of their officers are liable to be called to give evidence at a public meeting of the authority's overview and scrutiny committee, but their petition schemes must ensure that as a minimum the head of paid service, often known as the chief executive of the authority and the most senior officers responsible for the delivery of services can be required to attend such a meeting when requested to do so by a petition with a number of signatures above the threshold in the authority's scheme. The reasons for the request must relate to the officer's job functions.

45. Authorities operating executive arrangements are required by section 21 of the Local Government Act 2000 to have overview and scrutiny committees. The functions in this section are performed by the overview and scrutiny committee in the case of such authorities. Authorities which do not operate executive arrangements are currently required by regulations made under section 32 of the Local Government Act 2000 to have committees which carry out essentially the same functions as overview and scrutiny committees – and this section has the effect of conferring the public meeting function on such committees.

### ***Section 17 – Review of steps***

46. **Section 17** gives the petition organiser (see section 22) the power to ask an overview and scrutiny committee (or its equivalent in authorities not operating executive arrangements) to review the principal local authority’s response to their petition, if the organiser is not satisfied with the steps taken by the authority under section 14. The overview and scrutiny committee may arrange for the full council to carry out this function – that is to say the response of the authority to the petition could be discussed at a meeting of the full council. The principal local authority must inform the petition organiser of the outcome of this review.

### ***Section 18 – Supplementary scheme provision***

47. **Section 18** sets out other issues which principal local authorities’ schemes may include.

### ***Section 19 – Powers of appropriate national authority***

48. **Section 19** sets out the powers of the appropriate national authority (the Secretary of State in relation to principal authorities in England and the Welsh Ministers in relation to principal authorities in Wales) to issue guidance in relation to the discharge of the petition function by principal authorities. This power includes a power to create a model petitions scheme which authorities will be able to adopt. The appropriate national authority has power to direct an individual principal authority to amend its petition scheme, for example, if an authority set an inappropriately high threshold for the number of signatures required to mean a petition is “active” within the meaning of section 14, the appropriate national authority could require an authority to set a lower threshold. There is also a power to make orders applicable to all principal authorities to require them to make particular provision in their petition schemes.

### ***Section 20 – Handling of petitions by other bodies***

49. **Section 20** enables the appropriate national authority to apply the petitions obligations of this chapter to different categories of local authority specified in section 20(2). The power permits the petitions obligations to be applied with modifications to take account of differences in the way such local authorities operate.

### ***Section 22 – Interpretation***

50. **Section 22** contains interpretation provisions. In relation to e-petitions it provides that such petitions are “made” to the authority – and thus potentially trigger the obligations specified in sections 14, 15 and 16 – on a date specified by the e-petition organiser, rather than on the date the organiser asks the authority to host the e-petition, or the date when it is first opened for signature. If an e-petition organiser does not specify a date, it is for the principal local authority to specify in its petition scheme when the e-petition is deemed to be “made”.