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To: Selection and Member Services Committee
2 July 2010

Subject: Development of a Petition Scheme

Classification: Unrestricted

Summary: This report sets out the key issues for consideration in developing a Petition Scheme, which will be submitted to County Council for approval on 22 July 2010.

1. Introduction

(1) The Local Democracy, Economic Development and Construction Act 2009 introduced a requirement for every principal local authority to have a Petition Scheme for both paper and electronic petitions. The requirement to produce a scheme for paper petitions came into force on 15 June 2010 and the requirement to have a facility for electronic petitions will come into force on 15 December 2010.

(2) An Informal Member Group (IMG) chaired by Mr A H T Bowles and comprising Mrs A D Allen, Mr L Christie, Mrs T Dean and Mrs J Rook (apologies were received from Mr R Lees) met on 4 June 2010 to formulate its views on the first draft of the Petition Scheme. The views of the IMG have been incorporated into the revised Scheme and, with the consent of the Chairman, Members of the IMG who are not Members of this Committee have been invited to attend this meeting.

2. Petition Scheme

(1) The Department of Communities and Local Government has issued statutory guidance on the duty to respond to petitions, which includes a model Petition Scheme. Attached as **Appendix 1** is a draft Petition Scheme for Members' consideration based on the model scheme, which will be amended in accordance with Members' comments and be recommended to the County Council for approval at its meeting on 22 July 2010. The Petition Scheme, and any future revisions to it, must be approved by the County Council.

(2) The Petition Scheme applies to petitions that request the authority to take, or cease to take, the action described in the petition. Petitions cover matters that relate to the functions of the authority, or an improvement to the economic, social or environmental wellbeing of the authority's area to which any of its partner authorities could contribute.

(3) Petitions that relate to planning applications are exempt from the Petition Scheme and KCC has its own process for dealing with these. This is explained

in the Petition Scheme along with contact details for submitting a petition relating to a planning application.

(4) Petitions can be signed by people who live, work or study within the County Council's area; there is no lower age limit on who can sign a petition. The IMG suggested that this should be expanded to include visitors to reflect Kent's position as a tourist destination.

(5) Although it is possible for councils to set a minimum number of signatures required for a submission to be considered as a petition and responded to accordingly, the Members of the IMG were of the view that no minimum level should be set. This would ensure that very local issues, e.g. provision of a pedestrian crossing, which may have a large impact on a small number of residents, are still capable of being drawn to the attention of the Council and being responded to.

(6) The IMG discussed the possible conflict that might arise if an e-petition was submitted just before the closing date of a major service variation, such as a closure of a community facility or the re-provision of a service, which affected a significant number of people. Such service variations may well have followed an intensive consultation process and involve either staff transfers or redundancies, in addition to affecting service delivery. The IMG was concerned that a petition organiser might be under the misapprehension that the submission of a petition would automatically "stop the clock" on the process for the service variation, which would not always be the case. In practice, the Head of Democratic Services and Local Leadership would have to discuss this with the Directorate and the lead petitioner, and either agree a shorter timescale for the petition so that it did not fall outside of the published consultation timescale, or that the petition would be considered after the formal decision was taken.

(7) There are a number of provisions which the Petition Scheme must include, which are:

Acknowledgement of petitions and validation of e-petitions

(8) All petitions must be acknowledged in writing within a specified period. This acknowledgement will also set out the process for dealing with the petition. It is suggested that the period should be 5 working days from receipt of a paper petition. When an e-petition is submitted via the website the receipt of it will be automatically acknowledged, checked by Democratic Services and, if necessary, there will be an email dialogue with the petitioner to clarify points such as timescale for the petition before it is made live on the system. Valid e-petitions will be made live on the website within 10 working days of the initial submission of the petition.

How the County Council can respond to the petition.

(9) There must be provision within the Petition Scheme for the County Council to do any of the following in relation to a valid petition:

- (a) give effect to the request in the petition
- (b) consider the petition at a meeting of the Council

- (c) hold an inquiry
- (d) hold a public meeting
- (e) commission research
- (f) give a written response to the petition organiser setting out the Council's views about the request in the petition
- (g) refer the petition to a Policy Overview and Scrutiny Committee or, in the case of cross cutting issues, to the Scrutiny Board (to determine which Policy Overview and Scrutiny Committee will consider the petition).

In addition, the IMG recommended included the following additional potential responses:

- (h) holding a meeting with petitioners
- (i) calling a referendum

(10) The petition organiser must be notified in writing of the steps to be taken or proposed to be taken and the reasons for these, in relation to their petition.

(11) It is suggested that the timescale for responding (i.e. telling the petitioner what the County Council intends to do with the petition) should be 20 working days.

Requirement to debate a petition at a meeting of the County Council.

(12) Councils are required to set a threshold figure for the number of signatures required for a petition to automatically trigger a debate at a meeting of the County Council.

(13) In accordance with the statutory guidance, thresholds should be achievable and expressed in a simple figure so that people know the number needed to trigger these types of response. Thresholds should be set at a low level and should be achievable for petitions on very local, as well as authority wide, concerns. However, the setting of this threshold figure has proven to be particularly challenging for County Councils, which tend to have large populations with a two tier element.

(14) Councils can review their thresholds after a period of activity. If there have been no council debates triggered then consideration should be given to the reasons for this; for example, is there ample publicity for the Petition Scheme or should the threshold level be lower to ensure that it is achievable? The statutory guidance states that should it become apparent that a council is setting levels which are unachievable then the Secretary of State has the power to direct them to amend their Petition Scheme.

(15) The statutory guidance sets a maximum figure of 5% of the population of the local authority's area (in the case of Kent County Council this would be 70,000 people). The figure used in the model scheme is 1% of the population (in the case of Kent County Council this would be 14,000).

(16) The IMG considered suggested that the thresholds for the County Council should be as set out below:

(a) Countywide petition (covering a matter that affects the whole county) - 12,000 signatures;

(b) Petitions that relate to a county matter within a single District/Borough area – 1,000 signatures;

(c) Petitions that relate to a county matter within two or more District/Borough areas - a multiple of 1,000 signatures per district (i.e. for a matter relating to three districts 3,000 signatures)

(17) The IMG suggested the following process for carrying out these debates at County Council meetings:

The County 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 following meeting.

The lead petitioners, or their named representative, will be invited to attend the meeting and to submit a written statement of no more than 500 words, which should be sent to the Democratic Services Unit (preferably by e-mail) to arrive at least 2 working days before the meeting.

The lead petitioner, or a named representative will be given 5 minutes to present the petition at the meeting and the petition will then be discussed by elected Members for a maximum of 1 hour. If the lead petitioner, or their named representative, does not attend the County Council meeting then the petition will be considered in their absence.

(18) Currently, there is an informal process for petitions to be received by the Chairman of the County Council and handed to a Cabinet Member. The IMG agreed that this process should continue but that once the petition has been received by the Chairman of the County Council it should then be given to the Director of Law and Governance/Head of Democratic Services and Local Leadership so that the petition can then be processed under the agreed Petition Scheme.

Requirement for an officer to attend an overview and scrutiny committee

(19) The Regulations also require Councils to set a threshold figure for the number of signatures required for an officer to attend a relevant meeting of a Policy Overview and Scrutiny Committee to account for their actions relating to a particular matter within their remit.

(20) It is for the County Council to decide what the threshold for this should be. The model scheme suggests that this should be 50% of the number of signatures required to trigger a debate at County Council, the IMG agreed with this suggestion, which based on the suggested thresholds in paragraph 2(16) above would be 6,000 signatures for a countywide matter and 500 signatures (or multiples) for a matter relating to a district.

(21) Once this matter is referred to the relevant Policy Overview and Scrutiny Committee it will be for that committee to decide if, for the purposes of addressing the concerns raised by the petition, it would be more appropriate for another officer of the authority to attend instead of the named officer. It is assumed that the officer will also be accompanied by the relevant Cabinet Member.

(22) The officers that are covered by this provision are:-

Group Managing Director
Managing Director, Children, Families and Education
Managing Director, Communities
Managing Director, Adult Social Services
Executive Director, Environment, Highways and Waste
Executive Director, Economic Development & ICT
Director of Finance

(23) The IMG was of the view that the petition organiser, or their named representative, should be invited to attend the meeting of the Policy Overview and Scrutiny Committee and that the process for this should reflect the process adopted by the Cabinet Scrutiny Committee for allowing members of the public to speak on a matter called in for scrutiny. It is therefore suggested that the following process be adopted where a petition is submitted calling an officer to account at a Scrutiny Committee and it reached the required number of signatures.

The lead petitioners or their named representative:

(a) will be invited to attend the meeting and to submit a written statement of no more than 500 words, which should be sent to the Democratic Services Unit (preferably by e-mail) to arrive at least 2 working days before the meeting;

(b) will be allowed to address the Committee for up to 5 minutes to summarise their reviews and to amplify, but not repeat, any points in their written statement;

(c) will then be allowed up to 5 minutes to ask questions of the officer (the 5 minutes does not include the time for answers to be given). These questions should be used to seek genuinely new information. Questions must not be asked to which the member of the public already knows the answer.

(d) the Policy Overview and Scrutiny Committee will then make any recommendations that it considers appropriate.

Petition reviews

(24) If a petition organiser is not satisfied with the way in which the County Council had dealt with their petition they can request a review of the response to the petition by an Overview and Scrutiny Committee. In order to ensure that this review is carried out by a Policy Overview and Scrutiny Committee that was

not involved in responding to the petition, the IMG suggested that the Scrutiny Board should carry out all of these reviews.

(25) The petitioner must be informed of the results of the review. The results must also be published on the Council's website.

3. E- Petitions

(1) As mentioned above, the County Council is required to introduce a system to enable the public to submit petitions electronically. The Selection and Member Services Committee on 27 January 2010 was advised that it is intended to use the current Committee Management System (modern.gov) to administer e-petitions as this is a no cost option, which is already being used by a number of authorities across the country.

(2) Once an e-petition has been submitted and the Head of Democratic Services and Local Leadership has approved it as a valid petition, it will be put on the website and opened for "signatures". Anyone wishing to "sign" an e-petition will be required to register and provide their email and postal address (none of these will appear on the website) but will be used for administrative purposes.

(3) The IMG agreed to suggest that an e-petition should remain open for a maximum of 3 months (but that a shorter or longer timescale can be agreed with the petition organiser if appropriate).

(4) After the closing date, the petition will be dealt with in the same way as described in Section 4 below, unless one of the trigger levels is achieved for either an officer to be called to account to a meeting of a Policy Overview and Scrutiny Committee or for a debate at a meeting of the County Council.

4. Process for dealing with Petitions

(1) The Petition Scheme sets out what the public can expect from the County Council when they submit a petition, however, there needs to be a process behind that for the determination of petitions.

(2) The process is illustrated by the attached flow chart (**Appendix 2**). Basically, all valid petitions will be sent to the relevant directorate for their comments/input. If it is something that the Directorate is already dealing with, which will result in the action that the petition calls for, then no further action needs to be taken and the petition organiser will be informed accordingly. If a decision is required on what action, if any, will be taken in response to the petition then this will be a decision for the relevant Cabinet Member(s) based on information received from the Directorate.

(3) Once a decision has been made on the way forward, the petition organiser will be informed (and in the case of an e-petition those that have "signed" the petition will be informed as well) and the outcome of the petition will be put on the website.

(4) Local Members will be informed of any petitions received that relate to their electoral division and the outcome of the petition.

5. Timescale for implementation

(1) Although the legal requirement to have an e-petition scheme does not come into force until 15 December 2010, as we have to publicise the Petition Scheme and log paper petitions on the web site, it would seem logical to include e-petitions within the new scheme from the outset.

(2) As mentioned above, the system for e-petitions needs to be made live and a number of pages on the website finalised once the scheme has been agreed. Accordingly, it is suggested that the Petition Scheme, including e-petitions, comes into force on **1 September 2010**.

6. Consequential amendments to the constitution

(1) It is suggested that the Petition Scheme, once approved by the County Council, should be incorporated into the Constitution as an appendix.

(2) There are a number of consequential amendments to the Constitution that will arise from the approved scheme. These are set out in **Appendix 3** of the report (and are based on the assumption that the scheme will be approved as submitted). These will be amended in line with any changes made to the scheme by Members at this meeting or at the meeting of the County Council.

7. Additional recommendations from the IMG on Petitions

(1) In addition to the suggestions which have been reflected in this report and the attached draft Petition Scheme, the IMG also recommended that the Petition Scheme be reviewed 1 year after it comes into force to see if any amendments are necessary. It should be noted that if any amendments are recommended to the Scheme at that time, a revised Scheme will need to be approved by the County Council, via this Committee.

(2) The IMG also highlighted the need to ensure that Members are aware of the scheme and receive any necessary training.

8. RECOMMENDATION:

That:

(a) the Selection & Member Services Committee recommends to the County Council at its meeting on 22 July 2010 that it approves the Petition Scheme attached as Appendix 1 to this report, subject to any amendments made by this Committee, and that it be incorporated within the Constitution;

(b) the Petition Scheme, including the provision for submitting e-petitions, comes into force on 1 September 2010;

(c) consequential amendments to the Constitution resulting from the introduction of the Petition Scheme be made with effect from 1 September

2010.

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Background documents – *None*

KENT COUNTY COUNCIL

PETITION SCHEME

What are the guidelines for submitting a petition?

Petitions submitted to the County Council must include:

- a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the County Council to take.
- the name and address of the petition organiser (this is the person we will contact to explain how we will respond to the petition), and
- the name and address and signature of any person supporting the petition. (Petitions can be signed by people who live, work, study in or visit the County Council's area).

Petitions which are considered to be vexatious*, abusive or otherwise inappropriate will not be accepted and you will be contacted to explain the reasons for this

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 County Council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

What will the County 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 we can do what your petition asks for, the acknowledgement may confirm that we have already taken the action requested and the petition will be closed. If the petition has enough signatures to trigger a County Council debate, or a senior officer giving evidence, then the acknowledgment will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take.

If the petition applies to a planning application (**add link**), 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, such as council tax banding and non-domestic rates, other procedures apply.

To ensure that people know what we are doing in response to the petitions we receive the details of all the petitions submitted to us will be published on our

website, except in cases where this would be inappropriate. Whenever possible we will also publish all correspondence relating to the petition (all personal details will be removed). When you sign an e-petition you can elect to receive this information by email. We will not send you anything which is not relevant to the e-petition you have signed, unless you choose to receive other emails from us.

How will the County 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 one of the Council 's overview and scrutiny committees** or in the case of cross cutting issues the Scrutiny Board will determine which overview and scrutiny committee will consider the petition
- calling a referendum
- writing to the petition organiser setting out our views about the request in the petition

The County Council will respond to the petition with 20 days of receipt of the paper petition or the close of an e-petition.

**Overview and scrutiny committees are committees of Elected Members who are responsible for scrutinising the work of the County Council – in other words, the overview and scrutiny committee has the power to hold the County Council's decision makers to account.

If your petition is about something over which the County Council has no direct control (for example the local railway or hospital) we will consider making representations on behalf of the community to the relevant body. The County Council works with a large number of local partners **[link to list of LAA partners]** and where possible will work with these partners to respond to your petition. If we are not able to do this for any reason (for example if what the petition calls for conflicts with County Council policy), then we will set out the reasons for this to you. You can find more information on the services for which the County Council is responsible here **[link]**.

If your petition is about something that a different Council is responsible for, or for which we have joint responsibility, 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 for them to respond to or comment on, but could involve other steps. In any event we will always notify you of the action we have taken.

Full County Council debates

If a petition contains more than 12,000 signatures it will be debated by the County Council unless it is a petition asking for a senior council officer to give evidence at a public meeting (see below). If a petition covers a County Council matter that relates to a specific District Council area then 1,000 signatures will be required for a debate at the County Council. If this matter relates to more than one District Council area then the number of signatures required for a debate at County Council will be 1,000 per District Council area.

If a petition contains the number of signatures above this will mean that the issue raised in the petition will be discussed at a meeting which all Elected Members can attend. The County 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 following meeting.

The lead petitioner, or their named representative will be invited to attend the meeting and to submit a written statement of no more than 500 words, which should be sent to the Democratic Services Unit (preferably by e-mail) to arrive at least 2 working days before the meeting;

At the meeting of the County Council the petition organiser, or their named representative, will be given five minutes to present the petition at the meeting and the petition will then be discussed by Elected Members for a maximum of 1 hour. If the lead petitioner, or their named representative, does not attend the County Council meeting then the petition will be considered in their absence.

The County Council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee.

Where the issue is one on which the County Council's Executive are required to make the final decision, the County Council will decide whether to make recommendations to inform that decision.

The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

Calling an Officer to give evidence at an Overview and Scrutiny Committee

Your petition may ask for a senior council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, your petition may ask a senior council officer to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision.

If your petition contains at least 6,000 signatures for a countywide matter and 500 signatures (or multiples) for a County Council matter relating to a District area(s), the relevant senior officer, accompanied by the relevant Cabinet Member, will give evidence at a public meeting of one of the Council's overview

and scrutiny committees. A list of the senior staff that can be called to give evidence can be found here **[insert link]**.

You should be aware that the overview and scrutiny committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition – for instance if the named officer has changed jobs.

The lead petitioners or their named representative:-

(a) will be invited to attend the meeting and to submit a written statement of no more than 500 words, which should be sent to the Democratic Services Unit (preferably by e-mail) to arrive at least 2 working days before the meeting;

(b) will be allowed to address the Committee for up to 5 minutes to summarise their reviews and to amplify, but not repeat, any points in their written statement;

(c) will then be allowed up to 5 minutes to ask questions of the officer (the 5 minutes does not include the time for answers to be given). These questions should be used to seek genuinely new information. Questions must not be asked to which the member of the public already knows the answer.

E-petitions

The Council welcomes e-petitions which are created and submitted through our website **[link]**. E-petitions must follow the same guidelines as paper petitions (as set out above). 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. Most petitions remain open for a maximum of 3 months, but a shorter or longer timescale can be agreed with the petition organiser if appropriate.

When you create an e-petition, it may take up to 10 working days before it is published online. This is because we have to check that the content of your petition is suitable before it is made available for signature. 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. If you do not do this within 10 working days, a summary of the petition and the reason why it has not been accepted will be published under the 'rejected petitions' section of the website. When an e-petition has closed for signature, it will automatically follow the same process as a paper petition (as set out above)

In the same way as a paper petition, you will receive an acknowledgement within 5 working days of the close of the e-petition. A petition acknowledgement and response will be emailed to everyone who has signed the e-petition and elected to receive this information. The acknowledgment and response will also be published on this website.

How do I 'sign' an e-petition?

You can see all the e-petitions currently available for signature here **[insert link]**. When you sign an e-petition you will be asked to provide your name, your postcode and a valid email address. When you have submitted this information you will be sent an email to the email address you have provided. This email will include a link which you must click on in order to confirm the email address is valid. Once this step is complete your 'signature' will be added to the petition. People visiting the e-petition will be able to see your name in the list of those who have signed it but your contact details will not be visible.

What can I do if I feel my petition has not been dealt with properly?

If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that the steps that the County Council has taken in response to your petition are reviewed. All reviews will be considered the Scrutiny Board.

It is helpful to everyone, and can improve the prospects for a review if the petition organiser gives a short explanation of the reasons why the County Council's response is not considered to be adequate.

The Board will endeavour to consider your request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting.

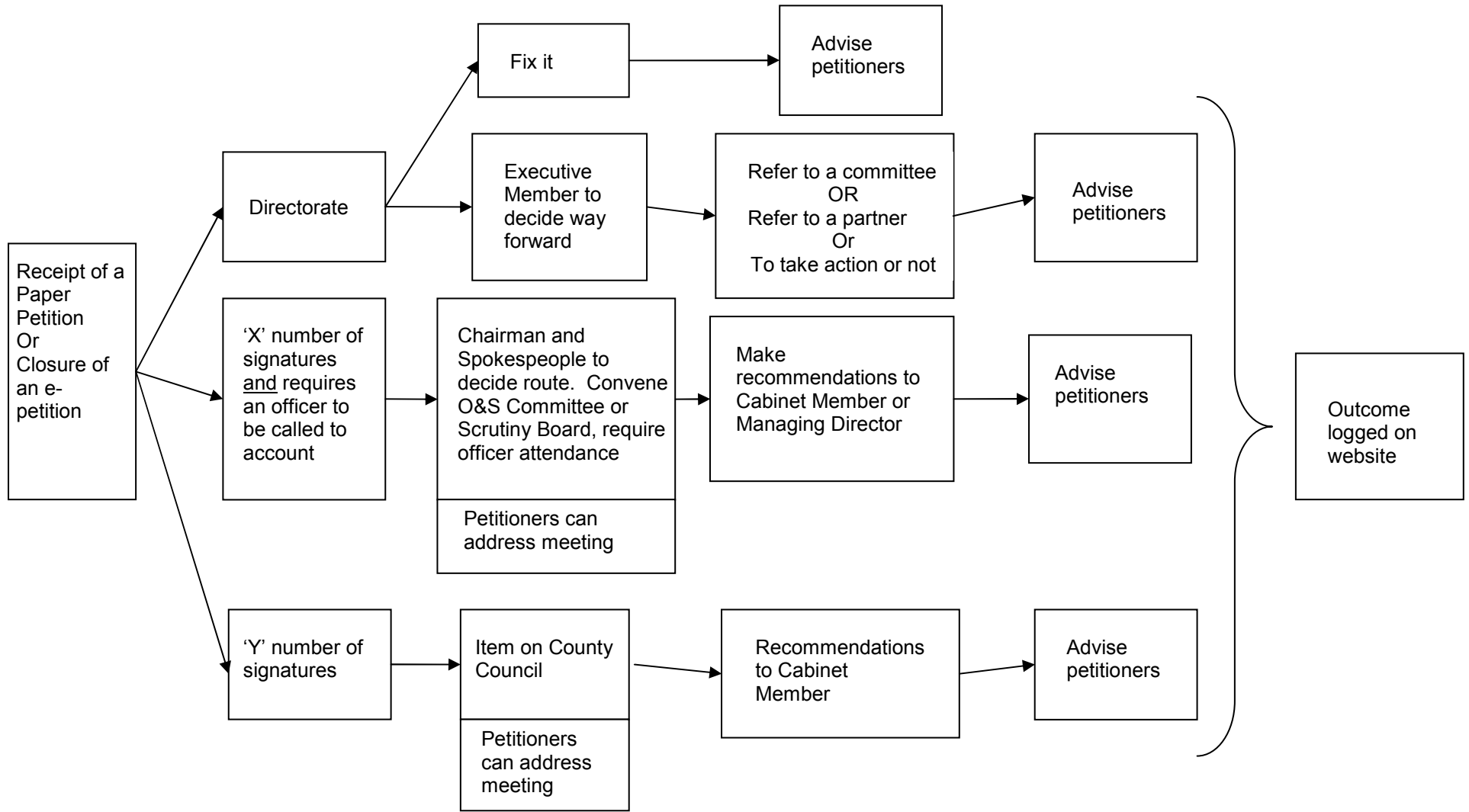
Should the Board determine that the County Council has not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the County Council's Executive and arranging for the matter to be considered at a meeting of the full County Council.

Once the appeal has been considered the petition organiser will be informed of the results within 5 working days. The results of the review will also be published on our website

* In deciding if a petition is vexatious the guidance used for the Freedom of Information act the starting point will be:-

"Deciding whether a [Freedom of Information] request is vexatious is a flexible balancing exercise, taking into account all the circumstances of the case. There is no rigid test or definition, and it will often be easy to recognise. The key question is whether the request is likely to cause distress, disruption or irritation, without any proper or justified cause"

Approved by the County Council on 22 July 2010
In force from 1 September 2010



Amendments to the Constitution –resulting from the Petition Scheme

3.1 Public rights (page 6)

Members of the public have the following rights:

(1) **Voting and petitions.** People on the electoral roll for Kent have the right to vote and sign a petition to request a referendum for an alternative form of Constitution.

(2) *People who live, work or study in or visit the County Council's area have the right to submit or sign a petition in accordance with the County Council's Petition scheme as set out in Appendix x.*

Appendix 2 Part 2:

Functions delegated by the Council to Committees

Policy Overview and Scrutiny Committee Suite

2. Policy Overview and Scrutiny Committees (Page 22)

2.5 Each Policy Overview and Scrutiny Committee has the power to:

(i) *hear evidence from an officer following the receipt of a petition signed by the required number of signatories (in accordance with the approved Petition Scheme)*

(j) *consider petitions referred to it in accordance with the approved Petition Scheme and to make recommendations for action to be taken.*

3. Scrutiny Board (page 23)

(h) *to determine, in the case of cross cutting issue, which Policy Overview and Scrutiny Committee should consider a petition in accordance with the approved Petition Scheme .*

(i) *to consider and determine all requests from a lead petitioner for a review of the response to a petition in accordance with the approved Petition Scheme.*

Appendix 4 Part 1:
Rules applying to Council Meetings

Agendas for Meetings (pages 60 – 61)

1.10 The agenda for each meeting, except the Budget meeting, will include:

(11) *a debate on a petition which has reached the required threshold level as set out in the Petition Scheme in appendix x.*

Petition debate (to be added to list of items for consideration at County Council on page 63)

1.23 (1) *The petition organiser, or a named representative, will be given the opportunity to present the petition at the meeting. If the lead petition, or their named representative, does not attend the County Council meeting then the petition may be considered in their absence.*

(2) *Debate on the petition shall not exceed forty-five minutes.*

(3) *In responding to the petition, the County Council may decide to:*

(a) *take the action the petition requests*

(b) *not to take the action requested for reasons put forward in the debate*

(c) *to commission further investigation into the matter, for example by a relevant committee or*

(d) *where the issue is one on which the Cabinet is required to make the final decision, to make recommendations to inform that decision.*