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To The Chairman and Members of the Overview &
Scrutiny Commission

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Date 24 May 2010

AGENDA SUPPLEMENT

Dear Sir/Madam,

OVERVIEW AND SCRUTINY COMMISSION - THURSDAY 27 MAY 2010

I refer to the agenda for the above-mentioned meeting and enclose the following items:

Item No	Report Title	Page Nos
6.	<u>Sickness Absence Task & Finish Group</u> To consider the report and recommendations of the Task and Finish Group.	21 - 39
8.	<u>Breckland Council Petitions Scheme</u> Report by the Scrutiny Officer.	40 - 50

Yours faithfully

Helen McAleer

Senior Committee Officer

BRECKLAND COUNCIL

OVERVIEW & SCRUTINY COMMISSION – 27 MAY 2010

REPORT OF THE DIRECTOR OF ORGANISATION DEVELOPMENT
(Author: Mark Broughton, Scrutiny Officer)

OSC SICKNESS ABSENCE REVIEW TASK & FINISH GROUP

1. Purpose of Report

The report details the review of the Council's sickness absence policy and procedures undertaken by a task and finish group.

2. Recommendation

The OSC is recommended to endorse the measures indicated in the Group's report.

Note: In preparing this report, due regard has been had to equality of opportunity, human rights, prevention of crime and disorder, environmental and risk management considerations as appropriate. Relevant officers have been consulted in relation to any legal, financial or human resources implications and comments received are reflected in the report.

3. Information, Issues and Options

Background

3.1 The Overview & Scrutiny Commission agreed at a meeting in autumn 2009 to set up a task and finish group to examine and review the Council's Sickness Absence policy and procedures.

3.2. The Sickness Absence Task & Finish Group consisted of Councillors Shirley Matthews (Chairman), Diana Irving and Robin Goreham supported by Mark Broughton (Scrutiny Officer) officers from Human Resources and a representative from Unison. The Group met on four occasions: 2 October and 30 November 2009, 21 January and 4 March 2010.

3.3 At the outset a terms of reference and project plan were agreed by the Group. The terms of reference is shown as attached at Appendix 1

3.4 The Group based their review of sickness absence on an evidence based approach which sought to include comparative information from peers and examined the subject in the round.

Issues

3.5 The Group explored the matter in hand as per the agreed terms of reference and project plan. The Group's report is attached at Appendix 1.

Options

3.6.1 To endorse the report and recommendations

3.6.2 To not endorse the report and recommendations

4. Risk and Financial Implications

4.1 None

5. Legal Implications

5.1 None

6. Other Implications

6.1 Equalities, S17 Crime and Disorder Act, S 40 Natural Environment & Rural Communities Act 2006, Human Rights, Other: None

7. Alignment to Council Priorities

7.1 Entrepreneurial Council

7.2 Your Council, Your Services

8. Ward/Community Affected

8.1 All

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Appendices to this report:

Appendix 1: Report of the Sickness Absence Task and Finish Group

OVERVIEW & SCRUTINY COMMISSION

SICKNESS ABSENCE TASK & FINISH GROUP

REPORT

MAY 2010

Introduction

1. The Overview & Scrutiny Commission agreed at its meeting on 23 July 2009 to set up a task and finish group to examine and review the Council's Sickness Absence policy.
2. The Sickness Absence Task & Finish Group consisted of Councillors Shirley Matthews (Chairman), Diana Irving and Robin Goreham supported by Mark Broughton (Scrutiny Officer) officers from Human Resources (Karen Hitchcock and Lucy Powles) and a representative from Unison (Zandra Waterford). The Group met on four occasions: 2 October and 30 November 2009, 21 January and 4 March 2010.
3. At the outset a terms of reference and project plan were agreed by the Group. The terms of reference are as follows

The Group will:

- *Review sickness absence at Breckland Council by examining the issues affecting sickness absences and the steps being taken to address them and reduce overall absence rates.*
- *Seek to identify the underlying reasons behind long term sickness absence and suggest ways to combat or mitigate this*
- *Examine what measures the Council is taking to deal with employee stress related absence (where workplace related)*
- *Request and consider relevant data, policies and procedures from comparator employers in order to benchmark and target set for the future.*

Ascertain the views of stakeholders such as the Portfolio Holder, Human Resources manager and Unison as to the effectiveness of the present policy and procedures and with a view as to how they could be improved.

4. The Group based their review of sickness absence on an evidence based approach which sought to include comparative information from peers and examined the subject in the round.

Background

5. Sickness absence is a significant cost to an employer given that it represents unproductive staff time. It is quite normal to have a policy to govern the policy and procedures associated with sickness absence which is balanced in seeking to ensure that absent employees return to work as soon as practically possible whilst at the same time seeking to ensure that staff receive appropriate holistic support to enable them to perform their duties at the optimum level.

Statistical and Data Analysis

6. The Group considered a breakdown of sickness types (October through December 2009) which showed that “Cold Cough Flu” was the single most prominent cause of absence, equating to between 22 and 29% of cases across the Council, followed by “Benign/Malignant Tumour” at typically 10 to 25% and “Gastro”, “Stress and Anxiety” and “Muscular” all rating about 7 to 15%.

7. Comparative sickness data covering the period 2006 to 2009 inclusive demonstrated that the months typically recording the highest proportion of days fte lost to sickness absence were the winter period of November to January although the 2009 figures were markedly down on the other three years covered.

8. Wider comparison of sickness absence with some other 15 local authorities across England in Breckland’s CIPFA “family group” showed that Breckland performed close to the average in 2008/9, recording an average of 8.83 fte compared to the average of 8.81. As of quarter two in 2009/10, Breckland was performing well in comparison to its peer group with 3.18 fte as opposed to a group average of 4.97. The caveat on all these figures is that it only takes two or three long term absences to skew the figures significantly in a typical district council.

9. The outturn figures over the last decade are shown in Table 1. This shows that sickness absence has fluctuated with no clear trend over the years.

Year	Outturn (average days per employee)
2000/1	9.53
2001/2	10.27
2002/3	7.61

2003/4	9.11
2004/5	9.75
2005/6	7.82
2006/7	8.71
2007/8	10.71
2008/9	8.83

Table 1: Sickness Absence 2000 to 2008
Source: Performance & Policy Team

The Present Policy

10. The Council's existing sickness absence policy was agreed in June 2008 (through Local Joint Consultative Committee and General Purposes Committee) with an agreed period of review within two years. The policy incorporates a sickness absence management policy allied to a sickness absence management and ill health procedure. It applies to all officers except any self employed (i.e. consultants) or agency workers.

11. The Group considered the policy systematically section by section and identified a number of minor wording amendments to reflect technical changes in systems since the policy was agreed. These proposed changes are shown in red (old text) and green (new text) in Appendix A attached (see also recommendation a).

12. Under "Absence Reporting Arrangements" the Group agreed that no significant changes to the wording of the policy were required. It was noted that the absence notification, certification procedure, maintaining contact with sick employees and the monitoring of sickness levels were all reasonable and required no significant amendment.

13. During the course of the review a relatively mild strain of swine flu manifested itself nationally. Members noted that in section 16 of the policy entitled "Extraordinary Circumstances" that the government had agreed that a ten day period of self certification would apply. In practical terms it was acknowledged that the provision of antiviral gel dispensers was a positive step to deal with swine flu.

14. Under "Managing Sickness Absence" the Group discussed arrangements on return to work interviews. There was a view that the basis of the return to work interview (applicable in all cases where a staff member had taken absence of one day or more) was somewhat onerous on line managers. Evidence suggested that some managers were not carrying out return to work interviews in every case, perhaps due to high workloads and the bureaucratic onus placed on them by the system. The figures for the last three months of 2009 showed that return to work interviews had taken place in 66% of cases in October, 65% in November and 72% in December.

15. Members acknowledged that there were differing characteristics and effects pertaining to short term as opposed to long term absence. The relevant trigger points relating to periods of short term absence (i.e. any period of absence totalling less than 30 days) were regarded as sensible and effective in providing adequate resolution of short-term absence. The employer is able to institute a so-called Performance Improvement plan (or PIP) in order to set targets for improved attendance. The number of employees on a PIP in 2009/10 was zero.

16. Long term absence is officially recognised as absences of one calendar month or more. The impact of long term absence on the organisation can often be more pronounced given the need to provide cover and holistic assistance such as through occupational health.

17. In the period from April to December 2009 there were 12 long term sickness absences at Breckland, equating to 695 working days. The total number of sick days in the April to December 2009 period was 1696 days so long term sick accounted for some 40% of the total days lost to sickness. Of these twelve cases five were due to depression or stress, two to cancer and one each to shingles, liver disease, chronic back pain, chest infection and lymphodema. It is important to note that the majority of the long term absence cases were not primarily ascribed to work related stress, rather to other external factors. Thus it was difficult to put in place measures to deal with non-work related stress.

Combating and Mitigating Absence

18. Officers indicated that there were a series of measures being undertaken to manage long term absence. Of the cases categorised under the cause of depression/stress it was noted that only two cases were directly work related with the remainder being due to a combination of reasons. The programme operated and promoted by the Council included a therapy scheme, self referral scheme, referrals to occupational health, and an employee assistance programme. A range of indirect wider measures helped support staff and included employee wellbeing week, a staff recognition event, weekly weigh-in and training on handling stress. The latter had been held over two sessions in January 2010 and were aimed at both managers and staff.

19. Occupational Health referrals for counselling numbered 12 in the period April 2009 to January 2010. Of these, seven cases were due to stress, three due to bereavement and two others were not disclosed. These twelve referrals accounted for some 75 counselling sessions in total.

20. The Group considered the work-life support strategy adopted by Norfolk County Council and the similar strategy adopted by Broadland Council. Whilst the possible benefits of such of strategy were recognised, members felt that with the likely fusion of Breckland and South Norfolk councils in the short to medium term under the Shared Services agenda that this issue could be best examined in tandem with South Norfolk as a future aspiration.

21. The existing sick note system is being replaced by a new “fit note” system. The Group concluded that to all intents and purposes this new system did not need to be incorporated within the sickness absence policy and procedure given that effective changes are minimal e.g. that the medical statement is still not required until after the seventh day of sickness.

Conclusions

22. Members recognised that Breckland’s sickness absence figures represented a comparable average figure for peer local authorities. The long term average was between 7 and 10 days per employee per year, which was not untypical in the sphere of local government.

23. Return to work interviews were seen as a necessary part of the process however the evidence suggested that there was some shortfall and that in approximately 30% of cases that no interview was actually held. In attempting to address this it was understood that some future move to an online absence monitoring system was currently being explored.

24. Long term absence could potentially skew the overall absence figures and thus it was important to manage instances of long term absence whenever possible. It was recognised that a tranche of measures had been put into train by Human Resources team aimed at alleviating sickness absence indirectly through promoting healthy living and associated benefits.

25. The Council’s policy was generally regarded as working well and there was no basis for any fundamental changes. Minor changes to update systems and terminology were needed.

26. It was recognised that officer-led ongoing review of elements of sickness absence would be effected pending the proposed merger of Breckland and South Norfolk councils in the medium term.

Recommendations

The Group made the following recommendations, that

a) the existing policy be updated with minor changes as shown at Appendix 2.

b) an electronic version of the return to work interview form should be provided, as this would save time and paper and would also allow for automatic generation of e-mail reminders and flagging of non-returns

c) an accident information card be produced for use by officers working out of the office, and

d) a review of the Out of Hours service be carried out, to safeguard staff and to ensure that staff and the service providers were aware of the respective responsibilities

BRECKLAND COUNCIL

SICKNESS ABSENCE MANAGEMENT POLICY

It is the policy of Breckland District Council to:-

- Operate its Sickness Absence Management Policy in accordance with the relevant legislation including Disability Discrimination Act 2005 and HASAWA 1974 and good practice
- Review this Policy at least every 2 years

- Be fair, reasonable and consistent in the application of the procedure
- Support high levels of attendance
- Improve attendance levels to the expected target wherever necessary
- Assist employees to overcome any difficulties that may affect their ability to attend work
- Take reasonable steps on precautions under its duty of care, including positive action to improve the welfare of employees
- Provide a safe working environment in which potential hazards and risks are at a minimum
- Ensure all employees are aware of their rights and obligations under the procedure
- Seek professional medical advice and/or opinion from Occupational Health Practitioner where appropriate under the Access to Medical Reports Act 1988
- be sensitive and maintain confidentiality when dealing with individual cases of Sickness Absence
- Ultimately put the organisation's needs first over and above any individual employee; but to treat each and every individual with dignity and respect where actions, including dismissal are implemented due to organisation need
- Where a dismissal takes place the Last Day of employment will not pre date the expiry of contractual sick pay entitlement.
- Review each case at 3 Months stages to determine what action, if any, to take under the procedure
- Offer the availability of confidential counselling support under the Welfare and Counselling Policy and Procedure

For further information you can also access the following on HR.net :-

- Sickness Absence Management Procedure
- Questions & Answers
- Related HR Documents

It is the intention to apply this Policy to all officers excluding self employed or agency workers

BRECKLAND COUNCIL

SICKNESS ABSENCE MANAGEMENT & ILL HEALTH PROCEDURE

Please use this procedure in conjunction with the Sickness Absence Management Policy. This procedure applies to all employees of Breckland Council.

ABSENCE REPORTING ARRANGEMENTS

1 Notifying Absence

For service delivery to be maintained, it is essential for line managers to know when an employee is unable to attend work due to illness. Failure to inform the line manager is unauthorised absence and will be treated as such.

1.1 The employee must telephone their line manager as soon as is reasonably practicable when they are off work because of illness, or injury. The employee should seek to notify their line manager by their normal starting time and in any case by 9.45am. In the line managers absence the employee should notify another team member.

1.2 The employee should inform their manager of the

- ⌚ nature of the illness or the injury,
- ⌚ the anticipated length of absence and any work commitments that may need rearranging.
- ⌚ when it started (even if these include rest days, weekend's, public holidays, etc.);

On the 4th working day of a continued absence the employee must again make contact with their line manager. The employee must provide an update on the expected length of absence and where this is unknown should maintain daily contact.

1.3 If the employee believes that their absence may have been caused by something that happened at work i.e. accident or disease, they should inform the line manager of this and the line manager must arrange for the appropriate Health & Safety forms to be completed via Environmental Health.

1.4 If, in exceptional circumstances, for example where the employee is hospitalised and the employee is unable to telephone in person, they must arrange for someone else to telephone on their behalf where possible, in accordance with 1.1 and 1.2 above. The employee must make direct contact with the line manager as soon as possible thereafter.

1.5 The **line manager employee** will enter the Sickness absence details onto **HR.net**. **the SAP system**

1.6 Whilst off sick employees should not undertake or engage in any activity which is incompatible with the illness or may delay recovery. Disciplinary action may be invoked if an employee is found to be doing so.

2 Certification

Every absence has to be certified to ensure prompt and correct payment of contractual and statutory sick pay and to ensure that accurate records are maintained. Failure to comply with the certification procedures may result in

loss of sick pay. Misleading or false statements may be dealt with under Breckland Council's disciplinary procedure.

- 2.1 In order to report accurately on our sickness absence **Best Value Performance National Indicator** all sickness absences must be recorded on **HR.net. the SAP system**.
It is the Manager's responsibility to log employee sickness absence on **HR.net the SAP system** as soon as they are notified. When the employee returns to work they will certify on **HR.net the SAP system** that they are fit for work and the system will automatically calculate the length of sickness absence.
- 2.2 If the employee continues to be absent for 8 calendar days or more they must consult a doctor and obtain a medical certificate, which must be forwarded immediately to their line manager. If the certificate is sent through the post the envelope must be addressed 'private – doctor's certificate' to ensure confidentiality.
- 2.3 Where there is continuing sickness absence the employee must submit to the manager concurrent medical certificates to cover the whole period of absence.
- 2.4 The line manager must ensure that appropriate and timely certificates are received from the employee.
- 2.5 The line manager must ensure that certificates are sent to Human Resources to monitor absence in accordance with statutory sick pay.
- 2.6 As a result of 6.1 below a manager may require the employee to submit doctor's medical certificates, rather than self-certificates, from their first day of absence. In such cases Breckland Council will meet the full cost of any fee charged. The employee will be notified of this requirement in writing.
- 2.7 If an employee is sick during a period of annual leave the employee will receive a credit of this leave if the employee contacts their manager on the first day of sickness. There may be circumstances where an employee may be unable to do so; in this instance the matter should be referred to the Service Manager for a decision to enable a fair and consistent approach. On return from sickness the employee must complete the record on **HR.net. the SAP system**.

3 Maintaining Contact

When an employee is absent from work due to sickness it is important that contact is maintained with the manager. The manager needs to ensure that work is reallocated and service delivery is maintained. The employee needs to ensure that they do not feel isolated, vulnerable or out of touch.

- 3.1 The employee and line manager should maintain regular, but not intrusive telephone contact during the early stages of sickness absence. The frequency of this can be determined by the line manager but should be reasonable, and taking into account the type of illness and likely duration.
- 3.2 If an employee is absent from work for more than **one calendar month** this is considered long term absence. The Occupational Health Centre may arrange a visit to the employee in consultation with the Manager and HR.
- 3.3 If absences become long term, regular contact between the employee and the line manager must be maintained. The type of contact made will be dependant upon and proportionate to the individual circumstances.

4 Monitoring Sickness Absence Levels

Information is necessary to manage sickness absence effectively and supplies managers with the information they need when reviewing options. The sickness review process can be initiated then the trigger points shown in 6.1 are reached.

Sickness absence monitoring is also a health and safety issue and Human Resources will provide information regarding sickness trends and patterns to Management, LJCC and General Purposes Committee as necessary. This information will not identify individuals and it will not be personalised.

- 4.1 All sickness absences must be recorded on **HR.net**. **the SAP system**
- 4.2 This information enables the Council to monitor the success of the Sickness Absence policy; plan proactive and preventative measures; and, report its **Best Value** Performance Indicators. Individual cases are not reported.
- 4.3 Each manager has information on sickness on **HR.net** **the SAP system** enabling them to monitor sickness absence levels within their team and take further action as necessary when trigger points are reached.

MANAGING SICKNESS ABSENCE

All managers who have line management responsibility will be required to attend sickness absence management training.

5 Return to Work Interview

- 5.1 Upon an employee's return to work from an absence of one day or more they will be required to attend a return to work interview with their line manager. The manager should arrange to meet privately with the employee, as soon as is reasonably practicable and preferably within three days of the return to work.
- 5.2 The purpose of the return to work interview would be to welcome the employee back to work, ensure that there is an accurate record of the absence and appropriate certification and update the employee on work issues. The line manager may also address any workplace issues that may have contributed to the absence, and discuss any necessary temporary reasonable adjustments. The manager should give genuine assurances of their concern for the employee's welfare, balanced with any concerns about service delivery and the impact on other team members. The manager should also provide the employee with information on the availability of support where appropriate or recommend any rehabilitation as recommended by the Occupational Health Centre, if appropriate.
- 5.3 The line manager will need to discuss with the employee how ongoing health problems affect work performance. If necessary, the line manager will encourage the employee to consult his/her doctor and/or refer them for Occupational Health advice.
- 5.4 It may not always be appropriate for line managers to offer advice in situations where there may be personal issues such as financial or domestic problems. If necessary, HR will be able to provide advice on organisations that are able to give various types of support.
- 5.5 A record of the meeting should be made.

5.6 Phased return to work is with 50% full pay and 50% sick pay. The Head of HR may approve different arrangements for exceptional circumstances.

6 Resolving Frequent Short-term Absence

6.1 Where an individual's absence level meets one of the following **trigger points**, the manager will review the absence levels with the employee.

- Three or more instances of sickness absence in any rolling 3 month period.
- Any other recurring recognisable patterns, such as frequent absenteeism on a Friday or Monday.
- All long term absences of one calendar month or more.

6.2 (i) Informal Review Meeting

In the first instance the Manager will meet the employee to discuss the significance of the absence, explore the reasons, identify areas for support, and if necessary review/update the risk assessment.

6.2 (ii) Formal Review Meeting

Where the absence is continuing or significant the Manager may ask you to attend a formal meeting.

The purpose of the meeting is to establish the underlying medical reason for the absence/s and to discuss what support might be offered to enable you to deliver satisfactory performance.

You will be informed in writing of the date, time and place of the meeting. You must take all reasonable steps to attend the meeting. If for any reason the date is not suitable, you should advise Human Resources of an alternative time when you are available. This should be within 10 working days of the original date.

You have the right to be accompanied to the hearing by a colleague or a recognised union representative.

6.3 The following outcomes might be agreed:

- The employee may be required to submit a medical certification from their doctor for every instance of absence over an agreed period (see 2.7 above).
- Advice may be sought from the OH Practitioner (see 10 below).
- Other support mechanisms may be identified and implemented.
- Reasonable adjustments such as changes to the workload, work practices or work pattern.
- Redeployment may be identified (subject to OH agreement). If redeployment is agreed there will be no salary protection, the employee will receive the rate of pay applicable to the new post.
- The employee may also be placed on a **Performance Improvement Plan** – see 6.4 below and the Capability Procedure.

The line manager will write to the employee within 10 working days of the meeting, confirming the points discussed and actions agreed. A copy of this letter will be placed on the employees personnel file.

6.4 Performance Improvement Plan

Targets set will take into account the following:

- Council targets (Performance Indicator)
- Trigger for monitoring sickness
- Average sickness across the team / portfolio over the last year
- The employee's attendance over a specified period (this would normally be over the last twelve months)
- Operational demands of the service

At the end of the Performance Improvement Plan (not normally less than 3 Months) actions could include:

- a) Extend the Performance Improvement Plan.
- b) No further action if fully acceptable attendance has been achieved.
- c) Agree to resolve minor residual attendance issues through informal meetings
- d) Seek to resolve the issue through another Procedure where Absence is not considered the underlying reason for under performance
- e) Ask you to attend a Sickness Absence Management Hearing (See Below)

The manager will write to you to confirm the result of the performance improvement plan review. If a Hearing is to take place the letter should contain that a potential outcome of the Hearing is the employee's dismissal on capability grounds or some other substantial reason.

6.5 Sickness Absence Management Hearing

See Model Hearing Procedure (Discipline, Capability and Absence)

Unreasonable behaviour by the Council may result in successful tribunal claims for failure to ensure its duty of care. Employees might not be able to participate in hearings or the process due to their illness.

Where appropriate HR will ensure that there is specific advice from the Occupational Physician where a Sickness Absence Management Hearing is being arranged. If there are underlying medical problems or factors which could be exacerbated by the Hearing process, Breckland Council will modify the process so far as is reasonably practicable.

Hearings do not need to be held on the Council's premises, which may be considered overly threatening, but can be held on "neutral" ground. They could also be conducted by correspondence. They should not be held at the employee's home, except in very exceptional circumstances – such a perceived need would indicate that the individual was significantly disabled.

6.5.1 Procedure

Employees will be informed in writing of the date, time and place of the hearing. Where it is reasonable employees should take steps to attend. Alternatively a union representative or colleague might attend in their absence. If for any reason the date is not suitable, you should advise Human Resources of an alternative time when you are available. This should be within 10 working days of the original date.

Before the hearing you will receive details of the case. You will have adequate time to prepare and an opportunity to present your side during the hearing.

Where you are able to attend in person you have the right to be accompanied to the hearing by a colleague or a recognised union representative. They can give you advice and support and address the hearing but may not answer questions on your behalf.

The manager, Human Resources or the Occupational Health Centre will also be asked to provide information on what actions have been taken. A management representative will also be present and witnesses may be called.

After the Hearing Officer has heard the case, your response and any evidence, they will decide but not limit their actions to;

- Take no further action if they deem acceptable attendance has been achieved
- Recommend further review, coaching, Occupational Health advice
- Consider suitable alternative employment opportunities
- Proceed under a different Procedure e.g. Capability or Disciplinary
- Dismiss for incapability to undertake the job due to ill health.

Whenever possible the Hearing Officer will inform the employee of the decision on the day of the Hearing and will write to the employee within 10 days confirming the outcome.

6.5.2 Dismissal

When reaching a decision about whether or not to terminate employment the Hearing Officer will consider issues such as:

- The need for the work to be undertaken
- The impact of the employee's absence and ill health on other employees and service delivery
- The employee's absence record
- Financial and cost implications
- Representations made by the employee and/or their representative
- What actions have been taken to attempt to enable the employee to continue
- Medical advice received

This list is not exhaustive and the weight attached to each will depend upon the circumstances of the case, whilst balancing the needs of both the employee and of Breckland Council.

6.5.3 Where a dismissal takes place the Last Day of employment will not pre date the expiry of contractual sick pay entitlement.

6.6 Right of Appeal against Dismissal

If you are dismissed you can appeal against the decision. You must appeal in writing to the Human Resources Manager within 10 working days of the decision being communicated to you.

You will be informed in writing of the date, time and place of the appeal hearing. You must take all reasonable steps to attend the hearing. If for any reason the date is not suitable, you should advise Human Resources of an alternative time when you are available. This should be within 10 working days of the original date.

Where possible, the appeal hearing will be heard by a more senior manager (certainly a different manager) who has not been previously directly involved in the case than the manager who heard the original hearing.

You have the same rights to be accompanied at the appeal hearing as the original hearing.

After the appeal meeting you will be informed of the final decision. Should any warning or penalty be withdrawn, reference to action will be removed from your personal file.

7 Managing Long-Term Absence

7.1 Continuous absences of one calendar month or more are considered long term.

7.2 The manager should contact the employee on a regular basis, at their home if appropriate, in order to keep up to date with progress, identify areas for support and determine whether any other actions should be taken. A trade union representative or work colleague may accompany the employee. The employee may refuse home visits if they so wish.

7.3 As a guide if it's evident that an absence is likely to continue for more than two months professional medical opinion should be sought from the OH Practitioner to establish the underlying medical condition, an indication of the likely duration of the employee's absence and whether steps can be taken to enable the employee to return to work.

7.4 Depending upon the advice received from OH, HR will review and advise on one or more of the following actions:

- Review date may be set with further advice to be obtained from OH.
- Reasonable adjustments such as changes to the workload, work practices or work pattern may be implemented, either as part of phasing the employee back to work or on a more permanent basis.
- Other support mechanisms may be identified and implemented.
- OH may advise that redeployment may be pursued on medical grounds.
- Investigations may take place into whether the employee may be eligible for ill health retirement pension benefits.
- If the case is not considered to be a permanent ill-health situation, the case will be referred to a Sickness Absence Management Hearing – see Section 6.5 above.

7.5 In exceptional cases, such as terminal illness, where life expectancy is anticipated to be less than one year, it may be decided to take no further action. An extension of sick pay on an indefinite basis may be considered in these circumstances.

7.6 If an employee is on long-term absence due to illness they will be notified by payroll when the period of full pay and half pay will cease to be paid.

7.7 When pay is exhausted the employee is entitled to outstanding holiday pay at the full pay rate. If the employee has a lease car, it may be necessary to reclaim the car if monthly payments are not received. Payroll will notify the employee before any change to the employees pay.

8 Work-related ill health or injury

8.1 If an employee or manager believes that ill health or injury has been caused by work, the employee or manager must complete Breckland Council's Accident Report form from Environmental Health as soon as possible.

8.2 If an employee has not completed an Accident Report Form and subsequently believes that their ill health or injury is caused by work, they should report this in writing to their manager, setting out the reasons why they believe that work has contributed or caused their ill health or injury.

8.3 Early advice should also be sought from the Council's Occupational Health service if appropriate. The OH Physician may also suggest that specialist advice may be helpful. In such cases the Council will pay any resulting fees.

8.4 Where an Accident Report Form has been completed, or where an employee subsequently claims that their ill health or injury is caused by work, the situation should be thoroughly investigated. The manager should inform the Chief Executive Officer and discuss the situation with the Health and Safety Manager in order to determine who should undertake the investigation.

8.5 The investigation should be undertaken by two people and should be completed as quickly as possible, with HR Services and a relevant Manager, and the Chief Executive Officer should be kept fully informed of progress.

8.6 The investigation should consider relevant background information such as:

- The job description
- The previous sickness record
- Previous OH recommendations/advice
- Previous grievances or complaints
- Details that have emerged in return to work interviews following previous absences or during the normal management process
- Management actions and any adjustments made as a result
- Time sheets, work logs, rotas, annual leave and flexi time records
- Training and development records
- Appropriate witness statements
- External factors (for example, if an employee who is alleging that they are suffering from repetitive strain injury is also a self-employed typist)
- Risk assessments
- Safe systems at work
- Personal protective equipment where relevant
- Any other information pertinent to the situation

8.7 Upon completion of the accident investigation, a report should be sent to the Chief Executive Officer or relevant manager, with a copy to the employee, UNISON Branch Health and Safety Officer, Health & Safety and HR Services.

- 8.8 The relevant manager will determine, based on the facts available and following consultation with HR, whether or not the employee has sustained an injury or illness as a result of what they were required to do at work, or the treatment they received at work. The Chief Executive Officer will determine whether the root cause of the employee's ill health is due to the competent performance of the employee's duties and responsibilities.
- 8.9 Written confirmation of the decision will be sent to the employee within 10 working days of the decision. In the event of a decision that ill health or injury is attributed to work, Breckland Council does not accept liability.
- 8.10 The line manager must ensure that Payroll is informed of the decision, where it will affect payment of sick pay.
- 8.11 The employee will have the right to seek a review of the decision through Breckland Council's Grievance procedure.
- 8.12 Any personal injury claims received for damages against Breckland Council should be forwarded directly to the Chief Executive Officer. Breckland Council's insurers deal with such claims.
- 8.13 Any person who meets the conditions for an injury allowance under the Local Government (Discretionary Payments) Regulations 1996 [S/1996/1680] or for a payment under the assault provisions of the National Conditions of Service should be issued with a claim form.

9 Ill Health which does not lead to absence from work

There may be occasions where an employee is suffering from ill health, but this does not lead to the employee being absent from work. If the employee believes that their ill health is having an impact on their ability to undertake their job, or could affect the safety of others, they should raise this with their line manager as soon as possible. The line manager should discuss the matter confidentially with the employee, review the workplace risk assessment and discuss whether any additional support can be provided to the employee to support them at work, or relevant controls be put in place. Depending on the circumstances, it may be helpful to seek advice and guidance from Breckland Council's Occupational Health Centre.

10 Occupational Health Referral

The role of the Occupational Health Practitioner is to provide advice and guidance to Breckland Council and its employees on the impact of an employee's ill health on their ability to undertake their duties and what measures can be put in place to support the employee, where appropriate. They can also advise on how work activities may affect an individual's health and wellbeing. The following points should be noted:

- 10.1 Human resources will complete the Application for Referral Form. A consent form will be sent to the employee to sign and return to enable a doctor's report to be obtained from their GP.
- 10.2 The employee must be made aware of their rights under the Access to Medical Reports Act 1988. In relation to Breckland Council's request for OH to seek a report from the employee's GP.
- 10.3 The manager and employee must ensure that as much relevant information as possible is provided to the OH practitioner. A copy of the letter will be provided to the employee.
- 10.4 The manager and employee must be clear about the points on which they seek advice.

10.5 Where the employee does not give their consent to the OH practitioner seeking a report from their GP and/or the employee refuses to meet with the OH practitioner, the implications of this should be discussed with the employee and confirmed in writing. Breckland Council will make decisions based on the available facts and evidence of the case at the time.

10.6 Breckland Council has an Occupational Health Adviser who will be able to provide a confidential advisory service for employees. There is the opportunity for employees to discuss any concerns they have over their health. If an employee wishes to see the occupational health adviser please speak to the Human Resources Team for an appointment which will be treated in confidence.

11 Sick Pay

Sick pay entitlement will be in accordance with the National Agreement on Pay and Conditions, commonly known as the Green Book.

12 Breach of Sickness Procedure

Failure to comply with this procedure can result in the employee losing both their statutory sick pay and sickness allowance under Breckland Council's scheme, and may result in disciplinary action in the following situations:

- Deliberate falsification of self-certification form or doctors statement
- Failure to follow notification rules without good reason (see note below)
- Failure to supply doctors statements
- Unsatisfactory reasons for being absent from work
- Undertaking paid or unpaid employment elsewhere whilst sick

Non-certified absences of more than 7 days will automatically result in the employee's salary being stopped. This is considered to be a breach of contract.

13 Surveillance

Breckland Council may consider undertaking surveillance or it may notify the Inland Revenue where there is cause for reasonable suspicion that an employee is in breach of the sickness absence policy/procedure; a suspicion of Gross misconduct or fraud.

Legal advice will always be sought before undertaking any covert surveillance to establish whether or not this is a legitimate action. Where surveillance is undertaken it will take into account an employees human rights and will be proportionate and key to any investigation which we are bound to carry out.

14 Sickness on Maternity Leave

If a pregnant employee is absent from work with a pregnancy related illness during the last 4 weeks of her pregnancy, her maternity leave will start automatically, details can be found in the Maternity and Paternity Leave guidance.

The following will not be counted in monitoring sickness absence data.

- Pregnancy related illness
- Dental and G.P. appointments

15 DDA – Sickness

The Disability Discrimination Act (2005) extends the scope of the Disability Discrimination Act 1995 imposes a duty on an employer to make reasonable adjustments to a job and/or workplace where performance is affected by a disability. Further help and advice can be obtained from the OH service.

16 Extraordinary Circumstances

In the event of a widespread epidemic or events affecting sickness levels Management and UNISON may agree an interim procedure.

17 Review

This procedure will be reviewed periodically to ensure its continuing relevance and effectiveness in light of experience, good employment relations' practice and developments in employment law.

Approved June 2008

BRECKLAND COUNCIL

OVERVIEW & SCRUTINY COMMISSION – 27 MAY 2010

REPORT OF THE DIRECTOR OF ORGANISATION DEVELOPMENT
(Author: Mark Broughton, Scrutiny Officer)

DUTY TO RESPOND TO PETITIONS

1. Summary

1.1 The Local Government, Economic Development and Construction Act 2009 places a statutory duty on councils to devise a petition scheme which is cognisant of the requirements of the Act.

1.2 There is a requirement to a scheme to be adopted by the implementation date of 15 June 2010. In addition, there is also a requirement for the Council to put in place an “e-petitions” scheme which is legally required to be implemented from 15 December 2010.

1.3 This report asks members to duly agree an appropriate draft petitions scheme for Breckland Council and to recommend the scheme to Council on 24 June 2010.

2. Recommendation

2.1 Members are recommended to

- 2.1.1. endorse the draft petition scheme (Appendix 1) including the proposed thresholds and to further recommend approval to Cabinet and Council, and
- 2.1.2. agree the associated terms and conditions (Appendix 2)

Note: In preparing this report, due regard has been had to equality of opportunity, human rights, prevention of crime and disorder, environmental and risk management considerations as appropriate. Relevant officers have been consulted in relation to any legal, financial or human resources implications and comments received are reflected in the report.

3. Information, Issues and Options

Background

3.1 The Local Democracy, Economic Development and Construction Act 2009 (the ‘2009 Act’) requires local authorities to establish a scheme for receiving and responding to petitions, including a facility for online petitions. A petition scheme:

- must be approved by a meeting of the full Council before it comes into force
- must be published on our website and by any other appropriate method
- can be revised at any time

3.2 Recently published statutory guidance issued by the Department of Communities and Local Government sets out the detail of what is required in a petition scheme and offers a 'model' scheme for authorities to adapt to their own circumstances. The guidance also sets a new definition of a petition for the purposes of a scheme as "anything which identifies itself as a petition, or which a reasonable person would regard as a petition."

3.3 The Council will also have to respond to petitions which relate to an improvement in the economic, social or environmental well-being of Breckland. This may mean acting as an advocate for the local community, working with partners to resolve the issue, lobbying a partner organisation on behalf of the community or instigating a scrutiny review of the issue.

3.4 Breckland Council – through the Chairman of the Overview & Scrutiny Commission in February 2010 – submitted a consultation response to the draft statutory guidance on the duty to respond to petitions.

3.5 On 30 March 2010, the Government announced that the duty to publish a petition scheme will be brought into force on 15 June 2010. However, the Government has accepted that more time is needed to prepare for the e-petitions element of the duty so these requirements will come into force on 15 December 2010.

Issues

3.6 There are four major issues which are left for local determination and on which members are asked to decide. These can be summarised as follows:

- There needs to be a specified minimum number of signatures for the petition scheme to apply. It is suggested that this is set at 20 signatures to represent a reasonable *de minimis* threshold.
- There needs to be set a threshold for the number of signatures on a petition that would trigger a debate at a meeting of full Council. It is recommended that this threshold be set at 1500 signatures, representing approximately 1% of the district population.
- A threshold also needs to be set for the number of signatures that would require a senior officer of the council attending a meeting of an Overview and Scrutiny Panel to give evidence. A threshold of 750 signatures is suggested for this requirement, representing 0.5% of the district's population.
- There also needs to be determined which senior officers will be liable to be called to account in this way and include their names and job titles in the petition scheme. It is suggested that these should be the Chief Executive and Directors.

3.7 Breckland's draft Petition Scheme is attached at Appendix 1. This meets the requirements of the Act and of the accompanying statutory guidance. Allied to the scheme are the terms and conditions, which include certain exemptions, based upon statutory guidance and shown at Appendix 2.

Options

3.8.1 To endorse the Breckland Petitions Scheme

3.8.2 To not endorse the Breckland Petitions Scheme

Reasons for Recommendations

3.9 The provisions of the Act regularise the way that petitions are dealt with on a formal legal footing. This, along with the guidance, offers a framework for ensuring corporate consistency across the council including a facility for dealing with online petitions. The Breckland Petitions Scheme complies with the requirements of the Act and guidance and has been adapted from the model scheme.

4. Risk and Financial Implications

4.1 The duty to respond to petitions may potentially result in increased interest from the public and the media given that the petitioning process is in the public domain.

4.2 The cost of implementing such a petition scheme has been recognised by the government and it is understood that additional funding will be made available.

5. Legal Implications

5.1 The Council is obligated by statute to adopt and publish its own petition scheme.

6. Other Implications

6.1 Equalities, S17 Crime and Disorder Act, S40 Natural Environment & Rural Communities Act 2006, Human Rights, Other: None

7. Alignment to Council Priorities

7.1 The matters raised in this report falls within the following Council priorities:

- Building Safer and stronger Communities
- Your Council, Your Services

8. Ward/Community Affected

8.1 All

Background Papers:

Statutory Guidance from DCLG: Duty to Respond to Petitions

Response by Breckland Council to Consultation on draft statutory guidance on the duty to respond to petitions

Lead Contact Officer:

Name/Post: Mark Broughton, Scrutiny Officer

Telephone: 01362 656 356

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Appendices attached to this report:

Appendix 1 – Breckland Council Draft Petition Scheme

Appendix 2 – Draft terms and conditions

DRAFT

Breckland Council Petitions Scheme

Petitions

The council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. All petitions sent or presented to the council will receive an acknowledgement from the council within 10 working days of receipt. This acknowledgement will set out what we plan to do with the petition. We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition.

Paper petitions can be sent to:

Breckland Council, Elizabeth House, Dereham, Norfolk NR19 1EE

Or be created, signed and submitted online by following this link

Petitions can also be presented to a meeting of the council. These meetings take place on a 6 weekly basis, dates and times can be found here [link]. If you would like to present your petition to the council, or would like your councillor or someone else to present it on your behalf, please contact a staff member in the Member Services Team on 01362 656 870 at least 10 working days before the meeting and they will talk you through the process. If your petition has received 1500 signatures or more it will also be scheduled for a council debate and if this is the case we will let you know whether this will happen at the same meeting or a later meeting of the council.

What are the guidelines for submitting a petition?

Petitions submitted to the council must include:

- a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the council to take
- the name and address and signature of any person supporting the petition.

Petitions should be accompanied by contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition. The contact details of the petition organiser will not be placed on the website. If the petition does not identify a petition organiser, we will contact signatories to the petition to agree who should act as the petition organiser.

Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. 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 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 council do when it receives my petition?

An acknowledgement will be sent to the petition organiser within 10 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 taken the action requested and the petition will be closed. If the petition has enough signatures to trigger a 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 or licensing application, 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. Further information on all these procedures and how you can express your views is available here [insert links]

We will not take action on any petition which we consider to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in our acknowledgement of the petition.

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. [link to account settings]

How will the 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 the council's Overview and Scrutiny Commission*
- calling a referendum
- writing to the petition organiser setting out our views about the request in the petition

*The Overview and Scrutiny Commission is a committee of councillors who are responsible for scrutinising the work of the council – in other words, the Commission has the power to hold the council's decision makers to account.

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 your petition is about something over which the 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 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 council policy), then we will set out the reasons for this to you. You can find more information on the services for which the council is responsible here [link].

If your petition is about something that a different council is responsible for 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, but could involve other steps. In any event we will always notify you of the action we have taken.

Full council debates

If a petition contains at least 1,500 signatures it will be debated by the full council unless it is a petition asking for a senior council officer to give evidence at a public meeting. This means that the issue raised in the petition will be discussed at a meeting which all councillors can attend. 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 following meeting. The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by councillors for a maximum of 15 minutes. The 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 council executive are required to make the final decision, the 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.

Officer evidence

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 750 signatures, the relevant senior officer will give evidence at a public meeting of the council's Overview and Scrutiny Commission. 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 Commission 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 committee may also decide to call the relevant councillor to attend the meeting. Commission members will ask the questions at this meeting, but you will be able to suggest questions to the chair of the committee by contacting [insert details] up to three working days before the meeting.

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 [link to guidelines].

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 run for six months, but you can choose a shorter or longer timeframe, up to a maximum of 12 months.

When you create an e-petition, it may take five 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 be submitted to [insert details]. In the same way as a paper petition, you will receive an

acknowledgement within 10 working days. If you would like to present your e-petition to a meeting of the council, please contact [insert details] within 10 working days of receipt of the acknowledgement.

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 council's Overview and Scrutiny Commission review the steps that the council has taken in response to your petition. 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 council's response is not considered to be adequate.

The Commission 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 committee determine we have 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 council executive and arranging for the matter to be considered at a meeting of the full 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.

Breckland Petitions Scheme – Terms and Conditions

Petitioners may freely disagree with the Council or call for changes of policy. We will not attempt to exclude critical views and decisions to accept or reject will not be made on a party political basis.

However, to protect this service from abuse, petitions should meet the following basic criteria:

- A title or subject of the petition
- A short statement saying what the petition is about and stating the action you wish the council to take
- It must have a minimum of 20 (twenty) signatures of people who live, work or study in the Breckland district, otherwise the Council reserves the right not to respond to it in accordance with our petition scheme
- To trigger a debate at Council your petition must contain at least 1500 signatures
- If you want a senior council officer to answer questions about matters raised in your petition at a meeting of the Council's Overview & Scrutiny Commission then it must contain at least 750 signatures and give grounds for the request
- The name of the person submitting the petition (known as the petition organiser)
- The contact address of the petition organiser (which will be used by us for any communications over the petition)
- It must have a name and address for any person signing the petition
- An e-petition must use the Council's online petition tool and each signatory must supply an e-mail address in addition to a postal address
- The start and end dates for collecting signatures to the petition must also be specified in advance for e-petitions.

We will not deal with petitions that:

- Include a matter which in our view is vexatious, abusive, is the subject of ongoing legal action or contains otherwise inappropriate comments i.e. profanity or other insults
- Do not comply with data protection, libel, equalities and anti-discrimination legislation
- Concern employment matters for Breckland staff

We reserve the right not to take action on:

- Party political material
- Information which may be protected by an injunction or court order
- Material which is potentially confidential, commercially sensitive or which may cause personal distress or loss

- Any commercial endorsement, promotion of any product, service or publication
- The names of individual officers of public bodies, unless they are part of the senior management of those organisations
- The names of family members of elected representatives or officials of public bodies
- The names of individuals, or information where they may be identified, in relation to criminal accusations
- Language which is intemperate or provocative. This is language to which people reading it could reasonably take offence because we believe it is possible to petition for anything politely
- Petitions that are very similar to and/or overlap with an existing petition
- Statements that don't actually request any action
- Wording that is impossible to understand
- Statements that amount to advertisements
- Petitions which are solely intended to be jocular
- Issues for which a petition is not the appropriate channel (e.g. correspondence about a personal issue)
- Freedom of Information or Environmental Information requests. This is not the right channel for FOI requests; information about the appropriate procedure can be found at [\[insert link\]](#)
- During politically sensitive periods, such as just before an election, we have to be extra careful to ensure that all political parties enjoy a level playing field. At such times, if your petition contains politically controversial material we may decide not to accept it or defer consideration of it until after the election. If this is the case we will explain the reasons and the revised timescale which will apply