

Review of Public Petitions – Stakeholder Consultation

Stakeholders Consulted

- Health Boards in Wales
- Local Authorities in Wales
- Welsh NHS Confederation
- Welsh Public Services Ombudsman
- Children’s Commissioner
- Older People’s Commissioner
- Welsh Language Commissioner
- WLGA
- WCVA
- Bevan Foundation
- Gorwel
- IWA
- Change.org
- 38 Degrees

NATIONAL ASSEMBLY FOR WALES – OVERVIEW OF PUBLIC PETITIONS SYSTEM

1. Assembly Standing Orders

1.1 The main provisions governing the Assembly's public petitions procedure are set out in Assembly Standing Order 23.

1.2 The Standing Order covers:

- that the functions in the Standing Order must be assigned to a responsible committee;
- the form of petitions;
- the admissibility of petitions;
- the action to be taken on a petition; and
- arrangements for closing petitions.

2. Responsible Committee

2.1 The functions in Standing Order 23 can be assigned to any Assembly Committee but in practice the Assembly has established the Petitions Committee to consider admissible petitions.

2.2 Unlike most other Assembly Committees, the Petitions Committee's membership does not follow the political balance of the Assembly. Instead it has four Members, one from each political group. The Committee seeks to operate in a consensual manner.

2.3 The Committee has available to it the usual powers of other Assembly Committees, including being able to invite any person to attend meetings to give evidence or provide advice and to exercise the Assembly's powers to 'call for people and papers'.

Consultation Question 1

Is establishing a Petitions Committee the best way to ensure that petitions receive proper attention? Is the size and composition of the Committee appropriate for its role?

3. Form of Petitions

3.1 Petitions must clearly indicate;

- the name of the petitioner, who can be an individual (other than a Member of the Assembly) an organisation or association;
- an address for communications about the petition; and
- the names and addresses of any person supporting the petition.

3.2 The Presiding Officer is responsible for determining the proper form of petitions and must publish her determinations. So far, there has been no need for the Presiding Officer to do so. However, it is usual for petitions to be framed along the lines of:

*We call upon the National Assembly to urge the Welsh Government...
OR We call upon the National Assembly for Wales....*

3.3 There is no formal limit on the length of petitions although the Petitions Clerk team will advise that wording should be brief and should focus on the action that petitioners wish to see taken. As well as the Standing Orders, the Petitions terms and conditions are considered when making an admissibility decision.

3.4 The Clerk team will also advise on wording that is inadmissible because it is offensive or potentially defamatory or because it raises issues such as sub judice. However, it is also important that petitioners are responsible for wording their own petitions, including robust expressions of opinion.

Consultation Question 2

Does there need to be more clarity about the proper form of petitions or are the current arrangements adequate?

4. Admissibility of Petitions

4.1 The Presiding Officer is the ultimate arbiter of the admissibility of petitions but has formally delegated day-to-day decisions on admissibility to the

Clerk of the Petitions Committee (the Committee itself does not have any role in these decisions).

- 4.2 Apart from being in the incorrect format, containing offensive language etc, petitions are inadmissible if they:
- have fewer than 10 signatures (unless they are submitted by organisations or associations in which case only one signature is required);
 - ask the Assembly to do anything which the Assembly clearly has no power to do;
 - are the same as, or substantially similar to, a petition which was closed less than a year earlier. (This is further expanded in the terms and conditions which states that ‘we reserve the right to reject petitions that are similar to and / or overlap with an existing petition that has been considered in the past 12 months’.)

Signature Threshold

- 4.3 The threshold for petitions is low and does not, therefore, significantly discourage the submission of petitions. This also means that issues are considered that may not have widespread or general support but are nevertheless of importance to those concerned.

Petitions from Organisations

- 4.4 Petitions from organisations only require one signatures to be valid (although many of these will still gather significant numbers of signatures). In practice, the definition of what constitutes an organisation has been loosely applied, with formally constituted groups such as charities and trade unions able to submit petitions along with less formal groups such as campaign groups or tenants and residents’ associations.

Consultation Question 3

Is the current minimum number of signatures (10) for a petition too high, too low or about right?. Should organisations also have to meet the minimum signature threshold (whatever level that may be)? If a different

threshold continues to apply to organisations, does the definition of an organisation need to be more rigorously applied?

Assembly Competence

- 4.5 Most of the admissibility criteria are relatively straightforward to interpret. The requirement that a petition should not ask “the Assembly to do anything which the Assembly clearly has no power to do” is the main factor in most admissibility decisions.
- 4.6 In interpreting this, the Presiding Officer has agreed petitions should not extend outside the direct ability of the Assembly or the Welsh Ministers to assist in resolving them. So one of the key tests in deciding whether a petition is admissible is whether the subject of the petition is within the legislative competence of the National Assembly or the powers of the Welsh Ministers.

Consultation Question 4

Should the Assembly continue to consider petitions only on matters for which the Assembly or Welsh Government has responsibility?

- 4.7 Petitions about operational responsibilities of individual local authorities are also inadmissible although this can be more difficult to decide when Welsh Ministers have a role in decisions that are otherwise the responsibility of local authorities, such as school closures.

Consultation Question 5

Should the Assembly consider petitions on matters for which individual local authorities have the main responsibility? Are there any responsibilities of local authorities on which petitions should be allowed?

- 4.8 Petitions are allowed on the operational responsibilities of Local Health Boards (LHBs) (and other Welsh Government Sponsored Public Bodies). This is because local authorities are considered democratically accountable to their electorates in a way that LHBs and other public bodies may not be.

The Welsh Government may also exercise a greater degree of day to day direction over the Health Service etc than it does over local government.

Consultation Question 6

Should the Assembly continue to consider petitions on matters for which public bodies (other than local authorities) have day to day responsibility? Are there some public bodies that should be treated differently (e.g. Local Health Boards).

Substantially Similar Petitions

- 4.9 This criterion is interpreted relatively liberally in relation to subjects that have not been considered recently by the Committee, particularly where petitions on the same issue are submitted around the same time. In practice, the Petitions Committee will often ‘group’ any similar petitions to avoid unnecessary duplication of consideration. However, where a petition is on a matter that has previously been closed by the Committee, a more restrictive approach is adopted.

Consultation Question 7

Should the Assembly consider petitions that are substantially similar to ones that are already being considered or have recently been considered?

Publication of Inadmissible Petitions

- 4.10 A list of inadmissible petitions is published periodically with reasons explaining why each petition was inadmissible.

Consultation Question 8

Should the Assembly continue to publish inadmissible petitions periodically?

5. Action on a Petition

The Assembly’s Standing Orders

- 5.1 The Assembly's Standing Orders say that in considering petitions, the Petitions Committee must:
- refer the petition to the government, any other committee of the Assembly or any other person or body for them to take such action as they consider appropriate;
 - report to the Assembly; or
 - take any other action which the committee considers appropriate.
- 5.2 The Committee must also notify petitioners of any action it takes on a petition. While it can close a petition at any time, it must notify petitioners that petitions have closed and of the reasons for closing them.
- 5.3 In practise, these requirements, along with the other powers available to it, allow wide scope for the Committee to take action on petitions and also ensure that petitioners are kept informed of progress.

Consultation Question 9

Do the Assembly's Standing Orders in respect of the Petitions Committee need to be changed?

Dealing with Petitions in Practise

- 5.4 The Committee meets once every two weeks for up to two hours. Once the Committee starts considering a petition, it will usually ask for the views of the relevant Welsh Government Minister and may then ask for information or views from other bodies that have a role to play in helping address issues raised by a petition.
- 5.5 The Committee can refer a petition to other Assembly Committees or invite witnesses, including Welsh Government Ministers, to attend its meetings to answer questions. The Committee can also report to the Assembly, which usually leads to a debate in the Assembly itself. However, the Committee cannot compel the Government, the Assembly or other public bodies in Wales to take any particular course of action and has no power itself to implement the terms of a petition.

- 5.6 The Committee receives a large number of petitions (it currently has around 200 under consideration) and it is not possible for it to give equal or urgent consideration to all petitions.
- 5.7 Many petitions will be dealt with through correspondence alone while in other cases petitioners and other witnesses will appear before the Committee so that it can gain a greater understanding of the issues involved. Some petitions are referred to other Assembly Committees for them to consider, although most are dealt with by the Petitions Committee.
- 5.8 When a petition is submitted it can be the first time that an issue has been raised with the Assembly or Welsh Government. In some other legislatures, petitioners have to show, that they have first tried to resolve a matter in another way before submitting a petition.
- 5.9 In some cases the Committee will conduct its own inquiries although, given pressure of time and the wide range of petitions submitted, these will usually be shorter and more limited in scope than inquiries conducted by other Committees. The Committee can report to the Assembly on any Petition and where it does so this will prompt a debate in the Assembly and a formal response from the relevant Minister.

Consultation Question 10

What changes could be made to the way the Petitions Committee deals with petitions to ensure better outcomes for petitioners or more effective consideration of petitions?

- 5.10 The Petitions Committee does not consider matters that are under investigation by the Public Services Ombudsman for Wales or by other similar office holders like the Children's, Older People's and Welsh Language Commissioners. Nevertheless, petitions can raise issues that may be appropriate for independent investigation by the Ombudsman or by Commissioners.

Consultation Question 11

Should the Petitions Committee be able to refer petitions to the Ombudsman or similar office holders, where they believe there are grounds for her/him to investigate?

6. Closing Petitions

- 6.1 The Petitions Committee can close petitions at any time and has closed petitions at initial consideration. More usually, the Committee will close a petition when:
- the original issue has been resolved to the satisfaction of the petitioners; or
 - when it is clear that little or no further progress can be made (often after Ministers make a clear statement of policy that they do not intend to, or cannot, implement what the petition is calling for);
- 6.2 The Committee will often adopt a ‘watching brief’ approach to petitions where progress seems to be possible but where it is dependent on other factors, such as wider reviews, legislation or budget processes.
- 6.3 When the Committee agrees to close a petition Standing Orders require it to notify the petitioner and give the reasons for closing it. This is usually done in a letter from the Committee Chair, which will include a summary of the action taken on the petition.

Consultation Question 12

When should petitions be closed if they are not resolved? Should they remain open so long as the issue raised by the petition is unresolved or should they be closed as soon as it is clear that they cannot be resolved?

7. Online and Paper Petitions

- 7.1 Most petitions are submitted online using the Assembly’s website but there is no real practical difference to the way online petitions and traditional paper petitions are dealt with. Indeed, there is no reason why petitions

collected on other petitions websites cannot be considered (although few are submitted in this way).

- 7.2 However, all publicity and promotion of the petitions process stresses the importance of petitioners talking to the Petitions Clerk before they start collecting signatures, to ensure that the wording is admissible. The Assembly's own online system ensures that wording is admissible before publication. It is only after a petition is published as admissible that it can start collecting signatures.
- 7.3 There is less control over paper petitions and those submitted on other sites. Sometimes petitioners will contact the petitions team after they have collected signatures. In these instances, if the petition is broadly admissible but not worded correctly it will generally be allowed. If the petition needs substantial refocusing, the petitioner may be advised that a new petition is needed. This is down to the discretion of the Clerk team, but a common sense approach is taken.

Timeframes for collecting signatures

- 7.4 It is up to the petitioner to decide how long they wish to have an online petition open for the collection of signatures. Petitioners are advised that between 4–8 weeks is sufficient but petitioners often wish to have their petitions open for longer. Deadlines for collecting signatures online can be extended if the petitioner wishes to gather more signatures or if it has failed to reach the minimum number of signatures.

Consultation Question 13

Should petitions collected on third party websites (e.g. change.org or 38degrees.org) be considered in the same way as petitions collected on the Assembly's website or on paper? Should there be a set period of time for a petition to gather signatures after which it 'falls'.

8. Other Matters

Who can sign and submit a petition

- 8.1 There are no age or residency restrictions on who can sign or submit a petition. So people outside Wales and the UK can submit petitions. Equally, people of any age can sign or submit a petition.
- 8.2 Assembly Members are specifically excluded from raising petitions. However, there is nothing to prevent staff who are employed by Assembly Members from submitting petitions and some have done so.
- 8.3 Similarly, there is nothing explicitly preventing staff employed by the National Assembly itself from raising and signing petitions. In practise, however, they are bound by the Assembly Staff Code of Conduct, which ensures that they cannot participate prominently in party political controversy and that personal political views are expressed so as not to compromise their ability to serve members of any political party.
- 8.4 Political parties can currently organise and submit petitions although some have argued that this is inappropriate given their other means of access to the political process? Others are of the view that political and public debate should be encouraged and that political parties are a key part of this.

Consultation Question 14

Who should be able to submit and sign petitions? Should there be any residency or age restriction? Should staff who work for Assembly Members and the Assembly itself be able to submit petitions? Should political parties be prevented from submitting petitions?

Repeat and Vexatious petitioners

- 8.5 There are no restrictions on people submitting or having under consideration more than one petition at the same time. The only restriction would be if it was on the same topic. Similarly, there are no provisions to deal with vexatious petitioners or petitions that are submitted in a spirit of mockery or are in some other way an abuse of process.

Consultation Question 14

Should there be a mechanism for preventing petitions that are considered an abuse of process?

For further information and advice please contact the Petitions Clerk:

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Review of Public Petitions – Terms of Reference

To review the Assembly's public petitions system and consider how improvements can be made to:

- the current admissibility criteria;
- the way in which admissible petitions are dealt with;
- how the Assembly's Standing Orders and other systems might need to change to support any recommendations.

List of Consultation Questions

1. Is establishing a Petitions Committee the best way to ensure that petitions receive proper attention? Is the size and composition of the Committee appropriate for its role?
2. Does there need to be more clarity about the proper form of petitions or are the current arrangements adequate?
3. Is the current minimum number of signatures (10) for a petition too high, too low or about right? Should organisations also have to meet the minimum signature threshold (whatever level that may be)? If a different threshold continues to apply to organisations, does the definition of an organisation need to be more rigorously applied?
4. Should the Assembly continue to consider petitions only on matters for which the Assembly or Welsh Government has responsibility?
5. Should the Assembly consider petitions on matters for which individual local authorities have the main responsibility? Are there any responsibilities of local authorities on which petitions should be allowed?
6. Should the Assembly continue to consider petitions on matters for which public bodies (other than local authorities) have day to day responsibility? Are there some public bodies that should be treated differently (e.g. Local Health Boards).
7. Should the Assembly consider petitions that are substantially similar to ones that are already being considered or have recently been considered?
8. Should the Assembly continue to publish inadmissible petitions periodically?
9. Do the Assembly's Standing Orders in respect of the Petitions Committee need to be changed?

10. What changes could be made to the way the Petitions Committee deals with petitions to ensure better outcomes for petitioners or more effective consideration of petitions?
11. Should the Petitions Committee be able to refer petitions to the Ombudsman or similar office holders, where they believe there are grounds for her/him to investigate?
12. When should petitions be closed if they are not resolved? Should they remain open so long as the issue raised by the petition is unresolved or should they be closed as soon as it is clear that they cannot be resolved?
13. Should petitions collected on third party websites (e.g. change.org or 38degrees.org) be considered in the same way as petitions collected on the Assembly's website or on paper? Should there be a set period of time for a petition to gather signatures after which it 'falls'.
14. Who should be able to submit and sign petitions? Should there be any residency or age restriction? Should staff who work for Assembly Members and the Assembly itself be able to submit petitions? Should political parties be prevented from submitting petitions?
15. Should there be a mechanism for preventing petitions that are considered an abuse of process?