

SUMMARY OF E MAIL CORRESPONDENCE BETWEEN HEAD OF DEMOCRATIC SERVICES AND PETITION ORGANISERS

1. E mail from Pauline Minsky to HDS - 19 December 2014

Thank you for your letter received today concerning the petition handed in by me on Monday 15th December regarding the potential closure of Children's Centres in Bury.

I am very disappointed by your response as it is incorrect. Bury Council's website clearly states that if a petition has over 2500 signatures then it becomes a petition that requires debate at council. I refer specifically to your Frequently Asked Questions page (link given below for your information) which states (copied and pasted from Bury Council's website)

Petitions calling for a debate - these petitions will contain at least 2500 signatures or more and will be debated by the full Council. The petition organiser will be given five minutes to present their petition at the meeting this will be followed by a discussion by Councillors for fifteen minutes and then a decision will be taken on how to respond to the petition request. This could include:
Taking action as requested in the petition;
Not taking the action requested for the reasons put forward in the Council debate;
Referring the issue to the Leader/Cabinet Member;
Commissioning further investigation.

<http://www.bury.gov.uk/index.aspx?articleid=2920>

Therefore, it is incorrect to state in your letter that the petition should be first considered by the appropriate cabinet member and may choose to deal with the petition in an alternative manner. It clearly states above that the matter should be referred to council for a fifteen minute discussion and then a decision will be taken on how to respond to the petition.

Please provide immediate clarification on this matter.

On a separate note, of course I understand that you have to follow internal checking procedures on the petition, which is a separate issue. On this note I wish to add that people who have signed the petition who work or study in Bury will not be on the Bury electoral register and furthermore any person who has signed the petition who studies in Bury will not be on the electoral register if they are under eighteen (nowhere does it state that you have to be over eighteen years of age to sign the petition). So using the electoral register as a way of checking the accuracy of the signatures as stated in your letter (attached) will not work. As a separate matter please provide clarification on this

as this does not correspond with the information given on the website about petitions.

Please give immediate clarification by email on the above points.

2. E Mail response from HDS – 22 December 2014

Dear Ms Minsky

Could I first of all apologise that our petition procedures have been updated recently and we are currently in the process of updating our web site to incorporate these changes.

The reason for the change is to bring the petitions procedure up to speed with current legislation. The arrangements which you refer to were brought in by the previous government and were specific in terms of the categories of petition, which included a petition being the subject of debate when a particular threshold was reached. Under the Localism Act, local authorities have been given flexibility in drawing up arrangements for dealing with petitions and there is therefore no legislative requirement to hold a Council debate along the previous lines. However, the current arrangements do not rule this out as an option but refer the petition to the Cabinet Member first for determination. As such, the options outlined in my e mail reflect the current arrangements for dealing with a petition containing in excess of 2500 signatures.

The 10% verification figure has again been introduced recently as part of the revised arrangements for dealing with petitions. I fully accept that anyone who works or studies in Bury is entitled to sign a petition and as such we would not use the electoral register as definitive. We would reasonably expect such people to live in the vicinity of Bury and we are able to check that the postcodes are consistent with this.

Again, I apologise that we are still in the process of updating our website. I am not in the office today but will be tomorrow if you wish to contact me to clarify any issues.

3. E Mail from Pauline Minsky – 22 December 2014

Thank you for your email. I note its contents and am frankly astonished by what you say. I reserve my position as to the contents of your email but I would like to point out that those guidelines which you now state are incorrect and out of date have been displayed on the council's website for a very considerable period, not least the past 13 weeks since the petition was registered. I suggest that the principles of fairness and reasonableness demand that the council follows those guidelines. I am copying in Councillor Campbell as the relevant cabinet member in the hope that the situation can be resolved as a matter of urgency.

4. E Mail from HDS – 23 December 2014

I have been contacted by Councillor Campbell who has made the decision to refer your petition to Council on 28 January 2015. I will contact you further following verification to go through the procedure for dealing with it at Council. Essentially the petition organiser is given 5 minutes to present the petition. The meeting commences at 7pm and this item will be placed near the top of the agenda. If as petition organiser you were unable to be present you may nominate another signatory to take your place.

5. E Mail from HDS – 20 January 2015

Just to confirm arrangements for Council to consider your petition at its meeting on 28 January 2014 at 7pm. You will be directed to the public gallery.

Under the procedure you will be given five minutes to present your petition. It is then for the Council to agree a response to the petition and if there is no agreement then the Cabinet Member will be invited to respond by way of a recommended course of action. This will be seconded and put to the vote without debate. The recommended course of action could include:

- Taking action as recommended in the petition;
- Not taking the action requested for reasons put forward by the Cabinet Member;
- Referring the issue to the Leader/Cabinet;
- Commissioning further investigation into the matter.

Could you please confirm that you will be attending to present the petition.

6. E Mail from Sian Crosby to HDS – 29 January 2015

I write to express my serious concerns as to the procedures followed at the full council meeting last night regarding the children's centres petition.

At the time that the petition was created the online guidance was clear and unambiguous. A petition which obtained 2500 or more qualifying signatures would be presented at a full council meeting AND TIME WOULD BE ALLOWED FOR COUNCIL MEMBERS TO DEBATE IT. You will be aware that last night no such debate followed the presentation of the petition even though this issue was raised by an elected council member.

Our petition was submitted on 15th December 2014. Some time after this we were advised that the rules governing petitions had changed. I do not believe however that the website even at this point has been updated to reflect this. In any event we were notified that the matter would proceed to full council. We therefore understood that the procedure published as being in place at the time

that the petition was created would be followed and attended last night believing that the council would debate this matter.

In order to assist in moving forward, please provide the following by return:

1. The date that you became aware that the petition procedure had changed
2. The date upon which the petition guidelines on the website were updated.
3. The date upon which the petition organiser was notified of the change in procedure, together with a copy of that communication
4. The date upon which the petition organiser was informed that the matter would not be debated by full council, together with a copy of that communication.

I believe that I am entitled to this information under the Freedom of Information Act.

It seems to me that, as at the time the petition was created and signed the procedure on the website required a full council debate, and as we were not notified of any changes to the procedure until after the petition had been submitted, if at all, a legitimate expectation was created that a full debate would ensue . The fact that it has not is in all the circumstances unfair, unjust and unreasonable. I suggest that the only appropriate remedy therefore is for this matter to be debated at the next full council meeting.

I look forward to receiving your agreement to this course of action with the utmost urgency.

7. E Mail Response from HDS – 13 February 2015

To put this into context, I would advise that petitions submitted to a local authority have traditionally been presented to the full Council by one of the Council members. The procedure is followed so that the Council as a whole may have knowledge of the petition and so that members of the public can be assured their petitions have been received by the Council. This was changed by legislation which set out specifically how petitions should be dealt with but this has now gone. Practice now varies, but as a general a rule no speech or debate is permitted on the petition either on notice by a member or automatically under the rules of the meeting as the Petition should be referred to the appropriate officer or Cabinet Member for consideration. This is to prevent the petition being used politically. In summary, it is now felt that the new arrangements clarify the purpose of the petition and role of the Council and Cabinet Member in considering petitions.

It was also the case that the decision had been taken at Cabinet and the petitions had been taken into account by Cabinet members when coming to their decision.

Dealing with points 1 to 4:

1. The Petitions Procedure was reviewed at a meeting of the Democratic Arrangements Forum which took place on 4 November 2014. Membership of this Forum includes the Political Group Leaders. The procedure was updated following the meeting as a draft and was subject to further e mail correspondence and update prior to being approved on 11 December 2015.
2. The Web Guidance (Frequently Asked Questions) was updated on 19 December 2014.
3. The Letter of Acknowledgement informed the Petition Organiser that the petition would be referred in the first instance to appropriate Cabinet Member, which is in line with the new procedure. (Copy of letter attached) The petition organiser was then e mailed on 22 December 2014 explaining the reason for the change in procedure and on 23 December 2014 explaining that the Cabinet Member had agreed that the matter be referred for consideration at Council (copies attached).
4. The Petition Organiser was informed as to the procedure to be followed at Council (copy of e mail attached). This states that:

“Under the procedure you will be given five minutes to present your petition. It is then for the Council to agree a response to the petition and if there is no agreement then the Cabinet Member will be invited to respond by way of a recommended course of action. This will be seconded and put to the vote without debate. The recommended course of action could include:

- Taking action as recommended in the petition;
- Not taking the action requested for reasons put forward by the Cabinet Member;
- Referring the issue to the Leader/Cabinet;
- Commissioning further investigation into the matter.”

With regard to your request for the matter to be debated at a future meeting of Council, following consultation with senior members and officers we do not feel able to concur with your request, given that there has already been extensive consultations and concessions made against the original proposals; and given the need to set the budget later this month. It is fully acknowledged that your petition was ongoing at the time that changes to the petitions procedure were being discussed and subsequently implemented. These changes were based upon a need to review the procedure in light of legislative changes and in light of experience which demonstrated anomalies in the existing procedure. Whilst it is acknowledged that there was a delay in updating the Petitions website, at the time that your petition was handed in then the new procedure was in operation. It would not therefore in our view have been appropriate to have done anything other than apply the new procedure in dealing with your petition.

8. E Mail from Sian Crosby to HDS – 19 February 2015

Thank you for your email and for the information you have provided to me. I do not wish to continue in protracted correspondence about this issue but I do feel that the Council's actions have fallen below the mark of reasonableness and that the decision not to debate this matter is unfair to the people who gave up hours of their time to obtain signatures on the petition and to the 3000 Bury residents who signed the petition on the understanding that it would prompt the matter to be debated in council.

From the answers provided in your email I now understand the time line to be as follows.

- The Localism Act 2011 repealed the requirement for councils to adopt a statutory petition scheme. This Act came into force in 2012.
- Bury Council did not review its petition arrangements until November 2014, over two years after the relevant law came into force.
- At the time the council reviewed the petition arrangements, the children's centre petition was one of a very small number of live petitions registered with the council, it having been created in late August/early September 2014.
- At the time the petition was created, the guidance on the website clearly stated that a petition that attracted 2500 or more signatures would prompt a full debate in Council.
- The Council did not notify the Petition Organiser that the petition arrangements were under review either at the time of the review in November 2014 or at the time the new arrangements were approved on 11th December 2014. The Petition Organiser was not in fact notified of the change in law until 22nd December 2014.

- The petition was submitted on 15th December 2014
- The website guidance was not updated until 19th December 2014.
- During the time from the creation of the petition until it was submitted on 15th December 2014, the campaigners and signatories were therefore under the impression that a full debate would ensue if 2500 signatures or more were obtained.
- During the time that the petition was active both councillors and council officers were aware that it was the intention of the campaigners to obtain 2500 signatures to prompt the full council debate, it having been discussed at a meeting with Ivan Lewis MP on 24th October attended by Councillors Rishi Shori, Gill Campbell, Jane Black and Paddy Heneghan and council officers Ian Chambers and Sue Reynolds. It was also referred to at the Prestwich Township Forum meeting in November 2014.
- On or after 18th December 2014 the Petition Organiser was sent an acknowledgement letter setting out the next steps. This letter did not explain the procedural change.
- On 23rd December the petition Organiser was notified that Councillor Campbell had decided the matter would be referred to council. Your email states as follows: "I have been contacted by Councillor Campbell who has made the decision to refer your petition to Council on 28 January 2015. I will contact you further following verification to go through the procedure for dealing with it at Council. Essentially the petition organiser is given 5 minutes to present the petition. The meeting commences at 7pm and this item will be placed near the top of the agenda. If as petition organiser you were unable to be present you may nominate another signatory to take your place". No mention is made in this email that the petition would not be debated.
- On 20th January 2015, you emailed the Petition Organiser to confirm arrangements for that meeting. The body of the email states as follows: "Under the procedure you will be given five minutes to present your petition. It is then for the Council to agree a response to the petition and if there is no agreement then the Cabinet Member will be invited to respond by way of a recommended course of action. This will be seconded and put to the vote without debate. The recommended course of action could include...". It appears that this is the first time you stated that the petition would not be debated. Given the context I do not think this constitutes a clear notification – certainly it was not apparent to the Petition Organiser or myself otherwise we would of course have raised this matter with you immediately.

In the light of these facts you have concluded as follows: "Whilst it is acknowledged that there was a delay in updating the Petitions website, at the time that your petition was handed in then the new procedure was in operation. It would not therefore in our view have been appropriate to have done anything other than apply the new procedure in dealing with your petition".

With respect, this conclusion is illogical. There was not just a delay in updating the website. There was a delay in implementing the Localism Act 2011 compounded by a failure to notify the Petition Organiser either that the rules were subject to review or that they had in fact changed. As such, the only fair, logical and reasonable course of action would have been to apply the procedure as stated on the website at the time the petition was created, signed and submitted.

I appreciate that there has been a full consultation and concessions made. But this is not the point. How can the public have confidence in the Council in these circumstances? If you are not prepared to debate this matter, I would suggest at the very least that a public apology is made at the next council meeting both to the campaigners and to those who signed the petition.

In all the circumstances therefore I am afraid that I am not satisfied with your response to my complaint. Please can you therefore advise by return whether there are any further steps in the Council's complaints procedure or whether I should now proceed to take up the matter with the Local Government Ombudsman.

Finally, please can you confirm which councillors and officers were involved in the Democratic Arrangements Forum which discussed the change to the petition procedure on 4th November 2014 and which councillors were involved in approving the procedure on 11th December 2014. Please can you also provide minutes of this meeting and all associated documents. In particular I would like to know what prompted the discussion about petition procedure in November 2014.

I look forward to hearing from you.

9. E Mail Response from HDS – 2 March 2015 (Responses in bold)

- The Localism Act 2011 repealed the requirement for councils to adopt a statutory petition scheme. This Act came into force in 2012. **THIS IS CORRECT.**
- Bury Council did not review its petition arrangements until November 2014, over two years after the relevant law came into force. **THIS IS CORRECT. The Council had a system in place which was the most important thing. I address below what specifically prompted the review and changes to the system in existence.**

- At the time the council reviewed the petition arrangements, the children's centre petition was one of a very small number of live petitions registered with the council, it having been created in late August/early September 2014. **THIS IS CORRECT.**
- At the time the petition was created, the guidance on the website clearly stated that a petition that attracted 2500 or more signatures would prompt a full debate in Council. **THIS IS CORRECT.**
- The Council did not notify the Petition Organiser that the petition arrangements were under review either at the time of the review in November 2014 or at the time the new arrangements were approved on 11th December 2014. The Petition Organiser was not in fact notified of the change in law until 22nd December 2014. **The e mail of 22 December explained the background to the reason behind the change in procedure but the acknowledgement letter of 18 December referred to the fact that the petition would in the first instance be referred to the Cabinet Member.**
- The petition was submitted on 15th December 2014. **THIS IS CORRECT.**
- The website guidance was not updated until 19th December 2014. **THIS IS CORRECT.**
- During the time from the creation of the petition until it was submitted on 15th December 2014, the campaigners and signatories were therefore under the impression that a full debate would ensue if 2500 signatures or more were obtained. **THIS IS ACCEPTED**
- During the time that the petition was active both councillors and council officers were aware that it was the intention of the campaigners to obtain 2500 signatures to prompt the full council debate, it having been discussed at a meeting with Ivan Lewis MP on 24th October attended by Councillors Rishi Shori, Gill Campbell, Jane Black and Paddy Heneghan and council officers Ian Chambers and Sue Reynolds. It was also referred to at the Prestwich Township Forum meeting in November 2014. **I personally was not aware of this and the Children's Centre petition was not considered in the context of updating the Petitions Procedure.**
- On or after 18th December 2014 the Petition Organiser was sent an acknowledgement letter setting out the next steps. This letter did not explain the procedural change. **As stated it explained that the petition in the first instance would be considered by the Cabinet Member.**

- On 23rd December the petition Organiser was notified that Councillor Campbell had decided the matter would be referred to council. Your email states as follows: "I have been contacted by Councillor Campbell who has made the decision to refer your petition to Council on 28 January 2015. I will contact you further following verification to go through the procedure for dealing with it at Council. Essentially the petition organiser is given 5 minutes to present the petition. The meeting commences at 7pm and this item will be placed near the top of the agenda. If as petition organiser you were unable to be present you may nominate another signatory to take your place". No mention is made in this email that the petition would not be debated. **This is accepted. At that stage the exact means of dealing with a petition at Council, under the new arrangements, had not been determined.**
- On 20th January 2015, you emailed the Petition Organiser to confirm arrangements for that meeting. The body of the email states as follows: "Under the procedure you will be given five minutes to present your petition. It is then for the Council to agree a response to the petition and if there is no agreement then the Cabinet Member will be invited to respond by way of a recommended course of action. This will be seconded and put to the vote without debate. The recommended course of action could include....". It appears that this is the first time you stated that the petition would not be debated. Given the context I do not think this constitutes a clear notification – certainly it was not apparent to the Petition Organiser or myself otherwise we would of course have raised this matter with you immediately.

In the light of these facts you have concluded as follows: "Whilst it is acknowledged that there was a delay in updating the Petitions website, at the time that your petition was handed in then the new procedure was in operation. It would not therefore in our view have been appropriate to have done anything other than apply the new procedure in dealing with your petition".

With respect, this conclusion is illogical. There was not just a delay in updating the website. There was a delay in implementing the Localism Act 2011 compounded by a failure to notify the Petition Organiser either that the rules were subject to review or that they had in fact changed. As such, the only fair, logical and reasonable course of action would have been to apply the procedure as stated on the website at the time the petition was created, signed and submitted.

I appreciate that there has been a full consultation and concessions made. But this is not the point. How can the public have confidence in the Council in these circumstances? If you are not prepared to debate this matter, I would suggest at the very least that a public apology is made at the next council meeting both to the campaigners and to those who signed the petition.

In all the circumstances therefore I am afraid that I am not satisfied with your response to my complaint. Please can you therefore advise by return whether there are any further steps in the Council's complaints procedure or whether I should now proceed to take up the matter with the Local Government Ombudsman.

The Petitions Procedure contains a Right of Review which you are at liberty to pursue. I attach a copy of the Petitions Procedure and would refer you to Section 6. In terms of the Complaints Procedure, I would suggest that the Local Government Ombudsman would be the next point of referral.

Finally, please can you confirm which councillors and officers were involved in the Democratic Arrangements Forum which discussed the change to the petition procedure on 4th November 2014 and which councillors were involved in approving the procedure on 11th December 2014. Please can you also provide minutes of this meeting and all associated documents. In particular I would like to know what prompted the discussion about petition procedure in November 2014.

I attach the minutes of the Democratic Arrangements Forum which contain details of those in attendance. I also attach a copy of the Operational Decision Form which agreed to the recommendations made by the DAF.

In terms of what prompted discussion about the Petitions Procedure, the Council had received a petition relating to the three weekly bin collection which was placed on the Council agenda for the meeting on 10 September 2014. The organiser failed to turn up to present the petition which immediately prompted an issue which required addressing. Also, the petition had been organised using Change.org and contained supporters who did not live in Bury and in a few cases, did not live in the UK. This prompted a review and consideration by the Democratic Arrangements Forum, and an opportunity to address whether the procedure overall was in need of revision.