

BUSINESS SUPPORT OVERVIEW AND SCRUTINY COMMITTEE

2 JULY 2020

PETITIONS

Report from: Richard Hicks, Director of Place and Deputy Chief Executive
Perry Holmes, Chief Legal Officer

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Summary

This report advises the Committee of any petitions received by the Council which fall within the remit of this Committee including a summary of the response sent to the petition organisers by officers.

The Committee is also requested to consider a petition referral request.

1. Budget and policy framework

- 1.1 In summary, the Council's Petition Scheme requires the relevant Director to respond to the petition organiser, usually within 10 working days of the receipt of the petition by the Council. Overview and Scrutiny Committees are always advised of any petitions falling within their terms of reference together with the officer response. There is a right of referral of a petition for consideration by the relevant Overview and Scrutiny Committee by the petitioners if they consider the Director's response to be inadequate. Should the Committee determine that the petition has not been dealt with adequately it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to Cabinet and arranging for the matter to be considered at a meeting of the Council.
- 1.2 The petition scheme is set out in full in the Council's Constitution at: <https://www.medway.gov.uk/downloads/file/2657/401 - council rules>
- 1.3 Any budget or policy framework implications will be set out in the specific petition response.

2. Background

- 2.1 The Council's Constitution provides that petitions received by the Council relating to matters within the remit of an Overview and Scrutiny Committee will be referred immediately to the relevant Director for consideration at officer level.
- 2.2 Where the Director is able to fully meet the request of the petitioners a response is sent setting out the proposed action and timescales for implementation.
- 2.3 For petitions where the petition organiser is not satisfied with the response provided by the Director there is provision for the petition organiser to request that the relevant Overview and Scrutiny Committee review the steps the Council has taken, or is proposing to take, in response to the petition.

3 Completed Petition

- 3.1 An e-petition titled Keep Uber running in Medway Towns was launched on the Council's website and ran from 1 July to 31 December 2019. Details of the petition and the response to it by the Chief Legal Officer are set out below.

Subject of petition	Response
Keep Uber running in the Medway Towns. 56 signatories (e-petition).	<p>The Council's current position regarding Uber is set out in a motion agreed on 25 April 2019. Council asked Officers to:</p> <ul style="list-style-type: none">· Seek their own independent legal opinion on the operation of Uber in Medway.· Meet with the Medway Licensed Taxi Drivers Association (MLTDA) to discuss these legal opinions in a constructive manner.· In the event of broad similarity in legal opinion, to take the appropriate action to cease and desist operations which are not in accordance with Local Government (Miscellaneous Provisions) Act 1976, Section 46 (1) (d). <p>Officers have subsequently complied with the first two requirements of the motion. We understand that the MLTDA intend to take legal action against Uber.</p>

Subject of petition	Response
	<p data-bbox="676 286 1382 651">On 25 November 2019 Transport for London decided not to provide Uber a further private hire operator's licence because they concluded Uber was not "fit and proper". Uber is understood to be appealing that decision and can continue to operate while the appeal is outstanding. That means they can continue to operate in Medway. The appeal process could be lengthy taking months or years, depending on the outcome at each stage and the appetite to continue.</p> <p data-bbox="676 689 1350 797">The Council will monitor the outcome of the appeal and any legal action taken against Uber by the MLTDA.</p>

3.2 As mentioned above, where the petition organiser is not satisfied with the response provided by the Council the petition organiser is able to request that the relevant Overview and Scrutiny Committee review the steps the Council has taken in response to the petition. In this case the petition organiser did not make such a request and the petition and the response to it is therefore reported for information.

4. Petition Referred to this Committee

4.1 The following petition was referred to this Committee because the petition organiser indicated that they were dissatisfied with the response received from the Director of Place and Deputy Chief Executive.

5. Norse and Medway Council - Stop anti-union bullying. Protect your workforce from Covid19.

5.1 A paper petition containing 16 signatures was presented by Cllr Andy Stamp on behalf of the petition organiser at full Council on 23 April 2020. The petition statement is as follows:

'When Medway Council's waste contractor, Norse Group, refused to implement social distancing measures or provide adequate PPE in the face of coronavirus, the workers stood together for the safety of their colleagues and the community they service by collectively refusing to work. They agreed to go back to work after their bosses signed an agreement to implement these health and safety measures.

Now Medway Norse have gone back on this agreement. Instead of providing hand sanitiser and reducing the number of workers travelling in the cab of a waste truck, they have attempted to de-recognise their union, Unite, and

bullied workers who complained about poor health and safety – making them do other jobs which they would not normally do.

This dangerous and selfish attitude cannot be allowed to continue.

Please sign and share to ensure safe working and union rights for workers at Medway Norse!

Norse Medway Limited Petition for PPE, Health & Safety and Unite Union recognition'

- 5.2 An e-petition containing 1,700 signatures was also presented but it could not be accepted as it did not include all of the information required by the Council's petitions scheme.
- 5.3 On 11 May 2020, the Director of Place and Deputy Chief Executive responded as follows:

'As we have said previously, we are profoundly grateful for the outstanding efforts of Medway's refuse collectors. They have continued to provide a critically important service to residents in exceptionally challenging times. Taking April compared to last year's data, there has been a 26% overall increase in waste collected from Medway's doorsteps, and our refuse collectors have risen to the challenge admirably.

The responsibility for operating commissioned services including waste collections lies with the Norse Group. It would therefore not be appropriate for us to have any part in the operational interpretation of the guidance or the decision-making around Health and Safety or any other areas of the service delivery. As you rightly point out, two of the company board members are Medway Council representatives however, their role is not to be a part of day-to-day operations or indeed to manage relationships with staff or trade unions. It is our understanding that the Norse Group has given clear direction and guidance to Medway Norse management on all Public Health England (PHE), Health and Safety Executive (HSE), Waste Industry Safety and Health (WISH) and other central Government guidance to ensure that their key workers remain safe and healthy, and that the Group remains compliant with all statutory legislation and COVID-19-specific guidance that falls under the Public Health (Coronavirus) 2020 Act.

Norse Group has advised that Refuse Collection Vehicles (RCVs) cannot comply with the 2m social distancing guidance due to the physical dimensions of the cab. Reducing the numbers in the cab to two operatives would still not comply fully with social distancing guidance. Furthermore, if two operatives were following in a support vehicle, social distancing concerns would be increased from 3 individuals to 4. WISH, PHE and HSE guidance clearly indicates that any move to reduce cab numbers should only be undertaken where reasonably practicable. However, they accept that reducing RCV cab operative numbers may ease the stress and anxiety of some staff, and hence this is an option offered to the workers at Medway Norse. To date, we are

advised, this option has been largely declined, with crews choosing to maintain normal operating practices.

On the subject of PPE, we have been assured that Medway Norse staff have always been in receipt of the correct and relevant levels of PPE and have always had welfare facilities made available to them at all sites and depots. This is in line with PHE guidance on hygiene. The hand wipes issued to RCV crews are in line with standards required and are fit for purpose and use. In addition, they have been successful in procuring a supply of alcohol hand gel. All crews are encouraged to use these regularly, and before any breaks or food consumption.

Residents have told us on many occasions how appreciative they are to have their full suite of weekly waste collection service maintained in these unprecedented times. Our refuse collectors are a credit to the Council and a credit to our community as a whole.'

- 5.4 On 20 May 2020, the petition organiser requested that the matter be reviewed by the relevant Overview and Scrutiny Committee. The request stated:

'Following your response to the above petition signed by over 1700 local Medway residents I would request this matter be referred to the above committee, as lead petitioner my reasons for this are as follows,

- 1- Medway council have a 50% interest in Medway Norse and despite your letter stating that the two appointed Board members on behalf of Medway Council's role is to "not be part of day to day operations or indeed to manage relationships with staff or trade unions" one of them "Ruth" recently provided a statement against 19 of these Key Workers who have worked tirelessly throughout this crisis in support of Medway Norse, in what is now a Formal Disciplinary for Gross Misconduct (ALL 19), this is despite any investigation meetings taking place, all those involved were Unite Union members, officially protesting and with the backing and knowledge of Unite the Union, Medway TUC and several Labour Councillors following a live broadcast of the full Medway Council conservative members "distancing" themselves from the operation and the concerns raised by staff and the public and furthermore actually providing the Medway Council Venue to hold this kangaroo court.
- 2- Despite repeated requests and e-mails by fully trained Health & Safety Reps employed by Medway Norse and representing the major workforce majority of Unite union members, who have legal entitlement and rights, NO Covid19 specific risk assessments have been made available for viewing or inspection since this current crisis began. (PHE, WISH Guidance).
- 3- Despite the advice of both Public Health England / Health & Safety Executive and Waste Industry Safety and Health, who all outline the need for full consultation with staff and unions as part of guidance / instructions, No Meetings, Management Briefings or Toolbox Talks in

relation to Covid19 have ever taken place at Medway Norse (these controlled discussions and meetings require official notes and signatures from staff).

- 4- In relation to any member of staff who actively requested PPE (facemasks) these were initially denied, despite crews constantly being switched. Social distancing, again in line with the regulatory body guidance those individuals were, after voicing concerns put onto "barrow work" thus forcing the remaining crew members to still complete their rounds despite the current 25-30% increases in the volume of collections without any support or help.

I feel that the major concerns on these matters has not been dealt with properly by Medway Council and would request the petition and points made above are brought before the Medway Council Overview and Scrutiny Committee at the earliest possible time.'

- 5.5 In response, the Director of Place and Deputy Chief Executive has further commented as follows:

I would reiterate that these are operational issues which need to be addressed to the Norse Group and not to Medway Council. The Council cannot offer any further comment as the matters raised are between the staff concerned and Medway Norse.

6. Risk management

- 6.1 The Council has a clear scheme for handling petitions set out in its Constitution. This ensures consistency and clarity of process, minimising the risk of complaints about the administration of petitions.

7. Financial and Legal Implications

- 7.1 Any financial implications arising from the issues raised by the petitions will be taken into account as part of the review of these matters.
- 7.2 Overview and Scrutiny Rule 21.1 (xiv) in the Council's Constitution provides that the terms of reference of this Committee include the power to deal with petitions referred to the Committee under and in accordance with the Council's petition scheme.

8. Recommendations

- 8.1 The Committee is requested to note the petition response and appropriate officer action in paragraph 3 of the report.
- 8.2 The Committee is requested to consider the petition referral request and the Director's response in paragraph 5 of the report.

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Appendices

None

Background papers

None.