

Member's Questions to Full Council Sept 20th 2021 – from Cllr Adrian Patch

Question 1

Background to Question 1

The Procedures Committee has recommended that the Council 'reaffirm' a document as the Constitution of this Council (Item 8 of the Agenda for the Meeting). This document arose from a process in which the Monitoring Officer was given delegated powers to 'tidy up' the Constitution, with the following guarantees given to the Council at the time:

For the avoidance of doubt [...] **the existing rules will not be materially changed** (i.e. will only cover changes to remove/address clear errors in law or drafting to improve clarity and understanding of the relevant provision as the Monitoring Officer considers appropriate).

The original Notice of Motion that has led to this item coming to Council outlined **several material changes** in the document that erode the rights of Members of the Public and Members of the Council to scrutinise the work of this Council. These material changes were discovered by one Member of this Council, from a preliminary and limited comparison of the new document with parts of the previously adopted Constitution – it is likely that *there may be other material changes*, including changes to procedures for investigating Standards Investigations of Members that might detrimentally affect their treatment in Standards Cases.

Question 1: Has the document dated November 2020 that purports to be a new version of the Constitution of this Council – but which has not been formally adopted as such by this Council – been *properly scrutinised to assess, record and present to Members all of the material changes in the document compared to the previous version of the Constitution to have been properly adopted by the Council*, and if so, by whom: the Constitution Review Group, the Procedures Committee, any other Committee or Members group of this Council, or any Officers of this Council (other than the Officer who drafted the document purporting to be the new Constitution of this Council)?

Question 2

Background to Question 2

Further to the background for Question 1, above, it is strange that the Procedures Committee has recommended that the document be '*reaffirmed*' as the Constitution of this Council – and not *adopted* – when it has not previously been adopted (or 'affirmed') by this Council as its Constitution.

Question 2: If the Council passes a resolution to 'reaffirm' a document as the Council's Constitution, with that document not having previously been adopted or 'affirmed' by the Council, *will this leave the standing of the Constitution of this Council open to potential legal challenge*, consequently also

potentially leaving any business transacted by this Council under a constitution not properly adopted but 'reaffirmed' open to legal challenge?

Question 3

Background to Question 3

The Procedures Committee has recommended that the Council make several changes – some major – to Planning Procedures (Item 9 of the Agenda for the Meeting). These recommendations do not appear to have come from a proper and considered review of Planning Procedures at the Council, but instead appear to be afterthoughts appended to a Standards Sub-Committee Decision Notice; recommendations briefly discussed by the Procedures Committee without any detailed context, especially in terms of what has prompted this limited consideration, i.e., what are the underlying issues of concern and what these proposed changes set out to achieve. *It is notable that the Standards Sub-Committee advised that the one Member of the Procedures Committee most thoroughly versed in the planning procedure issues underlying the recommendations not participate in the Procedures Committee's consideration of the recommendations.*

Question 3: Did the recommendations for major changes to the Planning Procedures of this Council arise from a proper and thorough review of existing Procedures, and in particular: what instigated the review; what form did this review take; what was its terms of reference; who conducted the review; what evidence was considered; and what report was produced?