

# Chair and Members of the Constitution Committee

## Proposed amendment to Constitution

### Introduction

Members of the committee will be aware of the speaker's comments at a recent meeting of the Council in which he invited members who had concerns about the constitution to place them before the Constitution Committee. I have made some proposals below which I ask the committee to approve.

They concern 1- Section 10 of Part 4 and  
2 - Council Procedural Rule 16 of Part 10

### Area of Concern

**Rule 10 of Section 1 Part 4** of the Constitution relates to **questions from members.**

**Rule 10.1** refers to questions on **“Reports of the Cabinet or Committees.”**

**Rule 10.2** refers to **“Questions on Notice at Full Council”** and is supplemented by rules 10.3; 10.4; 10.5; & 10.6. - **None of which apply to rule 10.1**

The above, which I consider to be an anomaly, results in the Council having a **two tier system of questioning where a member asking a question under the provisions of Rule 10.1, and indeed the member answering the question, does not have the same liberty and responsibilities as a member asking a question under the provisions of Rule 10.2.**

This deprives fellow members and others present, particularly members of the public, of a greater understanding of the matter in question, through listening to rational presentation and is an affront to the Councils' democratic reputation.

A democratic deficiency is also clearly evident in circumstances where **a decision is taken to give a written answer, in that neither the questioner, nor any other member of the council, has a facility to respond, except by means of a question on notice,** which may again attract a written answer and so on ad infinitum.

### Proposals

That members of the Committee approve the following amendments to the constitution:

1. - Section 1 Part 4 Rules 10.6 and 10.3 as shown in the associated Appendix 1 and:-
2. - Procedural Rule 16 of Part 10 as shown in Appendix 2

## Appendix 1

### 10.6 Response:-

After – “An answer” Insert – “to questions submitted under rules 10.1 or 10.2”

and 10.6 (c) after “circulated” delete “later”; (Removes an indefinite variable),

after “via” delete “Councils intranet or” (Members should not have to search for an answer),

and after “or E -mail” add “within 5 working days” (Imposes a definitive time scale).

After “Section (c)” Insert –

*(d) A member asking a question under Rule 10.1 or 10.2 may respond once without notice to (a) the direct answer, (b) a reference to a publication or (c) the decision to give a written answer, given by the member to whom the first question was asked. The questioner’s response must arise directly out of the original question or the reply. The Member to whom the question was addressed shall then have the right to conclude the debate.*

(This removes the current anomalous distinction between 10.1 and 10.2).

*e) Where a written response is given under the provisions of 10.6 (c) all members will have the right to respond to the answer as under 10.6 (d) at the next Full Council meeting, responses will be limited to the questioner and one member of each party, notice of intention to respond must be given not earlier than 14 nor less than 7 days prior to the meeting. Notice to be taken on a first come first served basis. The Member to whom the question was addressed shall then have the right to conclude the debate.*

(Under the existing provisions no one had the facility to respond to a written answer except by giving notice of a further question, clearly unhelpful to the democratic process; and also enables other interested members to participate in a debate, it should be remembered that because a question is asked singly it should not be concluded that there is no collective interest. The limitation on numbers prevents any “Free for all” developing).

### 10.3 Question and answer process – Delete 10.3 (e) “A member-----the debate”.

(10.3 (e), would become unnecessary on adoption of modifications to 10.6

## **Consequence**

10.6. Response will then read:-

### **10.6 Response**

*An answer to questions submitted under rules 10.1 or 10.2 may be given by the member to whom the question was asked or such other member as they may nominate.*

*An answer may take the form of:*

*(a) A direct oral answer;*

*(b) Where the desired information is in a publication of the Council or other published work, a reference to that publication; or*

*(c) Where the reply cannot conveniently be given orally, a written answer circulated to the questioner and to all other Members via e-mail within 5 working days.*

*(d) A member asking a question under Rule 10.1 or 10.2 may respond once without notice to (a) the direct answer, (b) a reference to a publication or (c) the decision to give a written answer, given by the member to whom the first question was asked. The questioner's response must arise directly out of the original question or the reply. The Member to whom the question was addressed shall then have the right to conclude the debate.*

*e) Where a written response is given under the provisions of 10.6 (c) all members will have the right to respond to the answer as under 10.6 (d) at the next Full Council meeting, response will be limited to the questioner and one member of each group, notice of intention to respond must be given not earlier than 14 nor less than 7 days prior to the meeting. The Member to whom the question was addressed shall then have the right to conclude the debate.*

Alternatively the committee may also like to consider the benefits to the democratic image of the Council by amending the constitution to giving all members, (subject to the numerical limitations proposed in (e), above, the right to respond to an answer to a question irrespective of the manner in which the answer is given. This could be achieved by revising (d) to read as follows:-

*(d) A member asking a question under Rule 10.1 or 10.2 and any other member (limited to one member from each group), on a first come first served basis, may respond once without notice to (a) the direct answer, (b) a reference to a publication or (c) the decision to give a written answer, given by the member to whom the first question was asked. The questioner's response must arise directly out of the original question or the reply. The Member to whom the question was addressed shall then have the right to conclude the debate.*

## Appendix 2

I understand that the Council is to give, or already have given Members of the Public who are submitting Planning applications, or who are having applications submitted and presented on their behalf the right to be heard at meetings of the Plans Board. If this is so then it is illogical to deny the relevant Ward Member(s) the right to be heard. I suggest that members consider the following amendment to Rule 16 of Part 10;-

16. Member attending meetings of a committee of which he/she is not a member

Insert: - “(a)” before “*Subject-----Act1972*”

*Insert (b) Members attending a meeting of the Plans Board when an application is submitted for a development within his /her ward, will have the right to speak and present such evidence as he/she considers will assist the board in coming to a decision. If the Board on examination deems that the evidence is irrelevant or inappropriate any reference to such evidence it will not be accepted.*