

ADVICE NOTE FROM CHIEF EXECUTIVE & MONITORING OFFICER

We write following last night's Council meeting and the judicial review application brought against the Council.

The Basis of the Claim

On Monday 19th October, the Council received an application for a judicial review from Democracy Newham Limited (the company behind the petition) of the Council's decision on 24 September that the petition was invalidly presented to the Council.

The application for judicial review seeks to overturn that decision and require the Council to take steps to validate the petition i.e. to check the signatures on the petition to see if there are sufficient valid signatures to require a referendum to be held. The number of signatures required is 11,100 (or 5% of the Newham electorate) and no validation has taken place for the reasons set out below.

The claimants argue that the Council's interpretation of the law on whether it was required to invalidate the petition was incorrect. The Council's decision was made because the amendments made by Coronavirus legislation to the regulations governing petitions required the Council to invalidate the petition as it was received between 16th March 2020 and 5 May 2021. The amendments to the petition regulations prohibited the presentation of petitions in this period. The Council will be defending the application on the grounds that its interpretation and application of the law is correct.

All members received an advice note about its decision on 24 September on that date, a copy of that note is attached.

The Current Position

The current position in the legal claim is as follows.

Most importantly and contrary to anything you may have seen on social media or otherwise, the High Court has made no decision on the merits of the application or the Council's decision of 24 September.

On Friday 16th, the Claimant (Democracy Newham Ltd) applied to the High Court seeking an injunction to require the Council to validate the petition by 18th October (last Sunday) but also to prevent Full Council from making a decision to hold a governance referendum at last night's meeting. However, after correspondence between the Council and the Claimant's solicitors, the application was withdrawn.

We therefore advised Council that there was no legal reason why it could not make its decision last night.

As stated, on Monday, the Claimants issued their application at the High Court. On Tuesday, the High Court made directions about the timetable for the progress of the case.

This is a standard procedure and, for members information, the Court ordered dates for the Council to serve its defence and that an initial hearing whether or not to grant permission for the claim to go forward to take place as soon as possible after 10 November. Any application for judicial review requires permission to be heard at a full hearing. No other decision was made by the Court.

Both the Council and Claimant agree that the matter should be heard quickly.

It is important that this case is resolved to allow sufficient time for a referendum to be held on 6th May. How quickly the case is heard is a decision for the Court to make at the hearing after 10 November but the judge who agreed the directions indicated in his judgement that he supports the view that the case should be heard quickly. We hope it is heard in November but it may well be December. Any later and we start to run into the period when we take significant practical steps to administer the referendum.

We will keep members informed of the progress of this matter. If you have any queries, please let us know.

Daniel Fenwick / Althea Loderick