

DUDLEY METROPOLITAN BOROUGH

**MINUTES OF THE PROCEEDINGS OF THE COUNCIL
AT THE MEETING HELD ON MONDAY 18TH JULY, 2005
AT 6.00 PM AT THE COUNCIL HOUSE, DUDLEY**

PRESENT:-

Councillor Kettle (Mayor)
Councillor J Woodall (Deputy Mayor)
Councillors Adams, Ali, Mrs. Ameson, Mrs. Aston, Attwood, Banks, Blood, Body, Boys, Bradney, Burston, Burt, Caunt, Mrs. Collins, Cotterill, Mrs. Cowell, Ms. Craigie, Crumpton, G.H. Davies, M Davis, Debney, Donegan, Mrs. Dunn, Evans, Mrs. Faulkner, Finch, Ms. Foster, Fraser-Macnamara, Ms. Harris, Ms. Hart, Islam, Jackson, James, Johnston, Jones, Mrs. Jordan, Male, Mrs. Martin, Miller, Mrs. Millward, Musk, Miss Nicholls, Mrs. Patrick, Mrs Pearce, Rahman, Mrs. Ridley, Rogers, Ryder, Mrs. Shakespeare, Southall, Sparks, Stanley, Taylor, Tomkinson, A Turner, K Turner, Mrs. H Turner, Tyler, Vickers, Mrs. Wilson, C. Wilson, C.L. Woodall and Wright; together with the Chief Executive and other Officers.

PRAYERS

The Mayor's Chaplain, the Reverend Tony Attwood led the Council in prayer.

Prior to the commencement of the formal business, the Council stood for a minute of silence in memory of the victims of the terrorist attacks in London on 7th July, 2005.

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MINUTES

RESOLVED

That the minutes of the Annual Meeting of the Council held on 19th May, 2005 be approved as a correct record and signed.

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DECLARATIONS OF INTEREST

Members declared interests, in accordance with the Members' Code of Conduct, as follows:-

Councillor Burston - Agenda Item 4(m) (Local Transport Plan) - Bus Strategy and matters related to bus service provision - Personal interest due to employment by CENTRO.

Councillor Burston - Minute No. 21(5) of the North Dudley Area Committee relating to Stickley Lane bus shelter - Personal interest due to employment by CENTRO.

Councillor Burston - Minute No. 19 of Halesowen Area Committee – Town Centre Development Service – Halesowen Bus Station - Personal interest due to employment by CENTRO.

Councillor Burston - Minute No. 4 of Licensing Sub-Committee 3 – Application to Vary a Premises License, The Woodman Inn, Bromsgrove Road, Halesowen - Personal interest due to he and his wife having objected to this application in a personal capacity.

Councillor Burston - Minute No. 21 of the Standards Committee - Determination of a Complaint against Councillor K Turner - Personal interest as Councillor K Turner was a fellow Councillor and Ward Member.

All Members and Officers – Agenda Item 4(d) and Minute No. 19 of the Cabinet – Member and Officer Indemnity - Personal interest due to implications for all Members and Officers of the Council.

All Members - Agenda Item 4(f) and Minute No. 21 (2) of the Cabinet – Members' Allowances Scheme - Personal interest due to the recommendations having implications for the allowances paid to all Members of the Council.

Councillors Debney, Southall and Mrs Wilson – Minute No. 68 of Brierley Hill Area Committee relating to Kingswinford Skate Park - Personal interest as Members of the Development Control Committee.

Councillor K Turner - All matters relating to Castle Hill Development and Dudley Zoo - Personal interest as a trustee of Dudley Zoological Society.

Councillor Mrs Aston – Minute No. 16(6) of North Dudley Area Committee – Delegated Capital Allocations – Age Concern, Sedgley and District. Personal interest as a Member of the Committee of Age Concern.

Councillor Mrs Jordan – Agenda Item 4(l) - The Special Educational Needs Strategy and Agenda Item 6(a) – Annual Report of the Select Committee on Lifelong Learning. Personal interests as a Governor of Pens Meadow School.

Councillor Islam - Minute No. 7 of the Select Committee on Economic Regeneration – Revised Race Equality Scheme - Personal interest as an individual member of Dudley Racial Equality Council.

Councillor Ms Harris – Agenda Item 4(a) Council Plan and Best Value Performance Plan - Personal Interest as Chair of Dudley Beacon and Castle Primary Care Trust.

Councillor Ms Harris – Minute No. 6 of the Select Committee on Economic Regeneration (Work Programme Confirmation) - Personal Interest as an Independent member of the Dudley Racial Equality Council.

Councillor Ms Harris – Minute No. 29 of the Cabinet (Dudley South NHS Primary Care Trust – Local Improvement Financial Trust). Personal Interest as Chair of Dudley Beacon and Castle Primary Care Trust - stakeholders in the Dudley South LIFT Partnership.

Councillor Tyler - All matters relating to Castle Hill Development and Dudley Zoo - Personal interest as a Trustee of Dudley Zoo.

Councillor Johnston – Delegated Decision 23 (Application for the release of the restrictive covenant on former Council owned land at Guest Hospital, Tipton Road, Dudley). Personal interest – Non-Executive Director of Dudley Group of Hospitals NHS Trust.

Councillor Johnston – Agenda Item 4(c) – Capital Programme Monitoring (Neighbourhood Renewal Fund insofar as it related to the Children's Centres Project). Personal interest due to attendance at meetings of the Castle and Priory Children's Centres' Planning Group.

Councillor Mrs Collins - Minute No. 16 of Stourbridge Area Committee – Page SAC/8 - Grant Applications. Prejudicial interest - son was Chairman of the Stourbridge Radio Group.

Councillors Mrs Ameson, Blood, Bradney, Ms Craigie, Donegan, Mrs Dunn, Finch, Hart, Ryder, Tomkinson, Vickers, J Woodall, Taylor and Wright - Agenda Item 4(f) and Minute No. 21 (1) of the Cabinet - Members' Allowances for Liquor Licensing Responsibilities - Prejudicial interest as the proposal affected the level of allowances payable to Members who served on Licensing Sub-Committees and the Chairmen of those Sub-Committees.

Councillor Taylor – Minute No. 81 of the Licensing and Safety Committee – Renewal of Public Entertainments Licence – Hasbury Conservative Club – Prejudicial interest as a Member of the Club.

Councillor Southall – Agenda Item 4(c) – Capital Programme Monitoring – References to Liveability – provision of a new multi-use games area at King George V Park, Wordsley – Personal interest due to involvement with the Friends of the Park Group.

Councillor James – Minute No. 19 of the Halesowen Area Committee (Town Centre Development Service) – Personal interest as a member of the Development Control Committee.

Councillor James – Minute No. 111(ii) of the Development Control Committee – Plan No. P05/0220 relating to Halesowen Conservative and Unionist Club – Prejudicial interest as a member of the Club.

Councillor Rogers – Minutes Nos. 16 (Capital Allocations) and 17 (Grant Applications of Stourbridge Area Committee: Stevens Park and Recreation Ground Foundation Trust) - Prejudicial interests in view of membership of the Scout Association and Vice Chairman of the friends of Mary Stevens Park respectively.

Councillor Fraser-Macnamara – Minute No. 98(xxiii) of the Development Control Committee – Plan No. P05/0351 relating to Cawney Hill Reservoir, Hill Top Road, Dudley and Minute No. 6(i) of the Development Control Committee – Plan No. P04/1520 relating to land at Hampden Close, Quarry Bank - prejudicial interest as the applicants and/or objectors were clients of Blount Macnamara Ltd.

Councillor Fraser-Macnamara – Minute No. 103(xiii) of the Development Control Committee – Plan No. P04/0220 relating to Halesowen Conservative and Unionist Club – Personal interest since he had made submissions on behalf of the applicant.

Councillor J Woodall – Minute No. 81 of the Licensing and Safety Committee – Renewal of Public Entertainments Licence – Hasbury Conservative Club – Prejudicial interest as a member of the Club.

Councillor J Woodall – Minute No. 111 of the Development Control Committee – Plan No. P05/0220 relating to Halesowen Conservative and Unionist Club – Prejudicial interest as a member of the Club.

Councillor Adams – Minute No. 83 of the Select Committee on Lifelong Learning relating to Rufford Primary School – Personal interest as a school governor.

Councillor Vickers – Minute No. 83 of the Select Committee on Lifelong Learning relating to Rufford Primary School – Personal interest as a school governor.

Councillors Stanley and G H Davies – Minute No. 17 of the North Dudley Area Committee (Land Issues – Land at Brookdale, Lower Gornal) – prejudicial interest in view of membership of the Development Control Committee.

Councillor Mrs Dunn - Minute No. 83 of the Select Committee on Lifelong Learning relating to Rufford Primary School – Personal interest as Chairman of Governors.

Councillor Attwood – Minute No. 17 of the Stourbridge Area Committee (Grant Applications: Stevens Park and Recreation Ground Foundation Trust) – Prejudicial interest as Chairman of the Friends of Mary Stevens Park.

Councillor Attwood – Agenda Item No. 4(c) – Capital Programme Monitoring – Liveability – Physical improvements, Phase 1 – personal interest as the Chairman of the Friends of Mary Stevens Park and membership of the Environmental Taskgroup on Liveability.

Councillor M Davis - Personal and prejudicial interest in agenda item 4(c) and all matters on the agenda relating to Social Services in so far as he was a service user.

Councillor Donegan – Agenda Item No. 4(c) – Capital Programme Monitoring – Personal interest as a governor of Halesbury School.

Councillor Rahman – Agenda Item 4(c) – Capital Programme Monitoring – References to Liveability – provision of a new children’s play area and seating at Netherton Park – Personal interest due to attendance at meetings of the Friends of the Park Group.

Councillor Ali – Minute No. 7 of the Select Committee on Economic Regeneration – Revised Race Equality Scheme – Personal interest as an Executive Committee Member of the Dudley Racial Equality Council.

Councillor Ali – Agenda Item No. 4(i) – Economic Strategy 2005/06 – Personal interest as a Director of St. Thomas’s Network.

Councillor Debney - Agenda Item 4(c) – Capital Programme Monitoring – References to Liveability – provision of a new multi-use games area at King George V Park, Wordsley – Personal interest due to involvement with the Friends of the Park Group.

Councillors Body and Crumpton – Minute No. 14(5) of the Halesowen Area Committee – Delegated Capital Budget – Prejudicial interest in view of membership of the Beech Tree Miners Welfare Club.

Councillor C L Woodall - Agenda Item No. 4(i) – Economic Strategy 2005/06 – Personal interest as a Director of St. Thomas’s Network.

Councillor Bradney - Agenda Item 4(c) – Capital Programme Monitoring – References to Liveability – provision of a new children’s play area and seating at Netherton Park – Personal interest due to attendance at meetings of the Friends of the Park Group.

The Chief Executive declared prejudicial interests on behalf of the Director of Education and Lifelong Learning (John Freeman) and the Director of Social Services (Linda Sanders) in Agenda Item No. 4(b) – Remodelling Council Services.

MAYOR'S ANNOUNCEMENTS AND THE RECEIPT OF APOLOGIES(a) Dudley Youth Council - National Youth Agency Award

The Mayor announced that Dudley Youth Council had won a National Youth Agency award for the best publicity campaign by a Youth Group. The Mayor presented a certificate to representatives of the Youth Council in recognition of their achievement.

(b) Dame Maureen Brennan

The Mayor expressed congratulations to the Head Teacher of Hillcrest School, Maureen Brennan, who had been made a Dame in the Queen's Birthday Honours List. On behalf of the Council, the Mayor recorded the Council's appreciation for her ongoing efforts at Hillcrest School.

(c) Apologies for Absence

Apologies for absence from the meeting were received on behalf of Councillors Mrs Coulter, J Davies, Harley, Knowles, Mottram, Ms Partridge and Simms.

COUNCIL PLAN AND BEST VALUE PERFORMANCE PLAN 2005/06

A report of the Cabinet was submitted.

It was moved by Councillor Caunt, seconded by Councillor Fraser-Macnamara and

RESOLVED

- (1) That the completed Best Value Performance Plan, as now submitted, be approved.
- (2) That the Council Plan comprise part of the Best Value Performance Plan and that the issues raised by the Cabinet, as referred to in paragraph 2.5 of the report, which have been taken into consideration in formulating the Best Value Performance Plan, be noted.
- (3) That the action taken to publish the Best Value Performance Plan by the required date of 30th June, 2005, as referred to in paragraph 2.7 of the report, be confirmed.

REMODELLING COUNCIL SERVICES

A report of the Cabinet was submitted.

It was moved by Councillor Caunt, seconded by Councillor Fraser-Macnamara and

RESOLVED

- (1) That the creation of a Children's Services Directorate and an Adult, Community and Housing Services Directorate be approved, with effect from 1st July 2006, subject to the necessary consultation with staff and trade unions.
- (2) That the establishment of a central personnel and training service, serving all Directorates and reporting to the Head of Personnel and Support Services, be approved.
- (3) That the Cabinet Member portfolios of Social Services and Education and Lifelong Learning be replaced by the creation of new portfolios for Cabinet Members in 2006/07 of Children's Services and Adult and Community Services whilst retaining the portfolio of Housing Services.
- (4) That the revision of the responsibilities of Select Committees so as to ensure that a single Select Committee has responsibility for Children's Services and a single Select Committee has responsibility for Adult Services, be approved.
- (5) That John Freeman be appointed to the post of Director of Children's Services, with immediate effect.
- (6) That Linda Sanders be appointed to the post of Director of Adult, Community and Housing Services, with immediate effect.
- (7) That paragraph 4.1 of the Officer Employment Procedure Rules be waived to enable the appointment of the Directors referred to in resolutions (5) and (6) above to be made by the Council and not the Appointments Committee.
- (8) That a further report be submitted to the Cabinet in due course detailing the financial and all other implications of establishing the new Directorates, including specific proposals in relation to the remit of School Committees.

CAPITAL PROGRAMME MONITORING

A report of the Cabinet was submitted.

It was moved by Councillor Caunt, seconded by Councillor Fraser-Macnamara and

RESOLVED

- (1) That the additions to the Liveability project, and (subject to geotechnical investigations and the determination of planning applications) their inclusion in the Capital Programme, as set out in paragraph 2.2.1 of the report, be approved.
- (2) That the schemes to utilise Section 106 funding, and (subject to the outcome of public consultation, geotechnical investigations and the determination of planning applications) their inclusion in the Capital Programme, as set out in paragraph 2.2.2 of the report, be approved.
- (3) That the project to replace the Dome at Dudley Leisure Centre and its inclusion in the Capital Programme, as set out in paragraph 2.2.3 of the report, be approved.
- (4) That the Disability Discrimination Act works at Leisure Centres and their inclusion in the Capital Programme, as set out in Paragraph 2.2.4 of the report, be approved.
- (5) That the enhancement to the Leisure Management System and its inclusion in the Capital Programme, as set out in paragraph 2.2.5 of the report, be approved.
- (6) That the scheme to acquire premises in the Priory Street Opportunity Area of Dudley Town Centre be included in the Capital Programme, as set out in paragraph 2.2.6 of the report.
- (7) That the expenditure on replacing the Vehicle Lifts at Lister Road Garage be approved and included in the Capital Programme, as set out in paragraph 2.2.7 of the report.
- (8) That Outline Project Proposals be made to the English Partnerships Land Stabilisation Programme in respect of the Limestone Stabilisation Programme, and that the cost of preparation be included in the Capital Programme and underwritten from available capital resources as set out in paragraph 2.2.8 of the report.

- (9) That the Social Services Capital Programme for 2005/06, as set out in paragraph 2.3.1 of the report, be approved.
 - (10) That the use of the capital receipt referred to in paragraph 2.3.2 of the report (future development of local authority residential homes and the further development of housing with care) be approved and included in the Capital Programme.
 - (11) That the scheme to adapt bungalows in Brierley Hill as part of the Extra Care Housing initiative, and its inclusion in the Capital Programme, as set out in paragraph 2.4.1 of the report, be approved.
 - (12) That the capital element of the programme of expenditure under the Neighbourhood Renewal Fund for 2005/06, as referred to in paragraph 2.5.2 of the report, be approved and included in the Capital Programme.
 - (13) That the use of capital receipts, arising from the implementation of specific proposals under the review of the Primary Schools sector for utilisation to help ensure that all Primary School education takes place in high quality buildings, as referred to in paragraph 2.6.1 of the report, be approved and included in the Capital Programme.
 - (14) That the grant allocation from the Safer Strong Communities Fund be noted, and that the associated expenditure be included in the Capital Programme, as set out in paragraph 2.5.1 of the report.
 - (15) That the urgent amendments to the Capital Programme, as set out in paragraph 2.7 of the report, be noted.
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MEMBER AND OFFICER INDEMNITY

A report of the Cabinet was submitted.

It was moved by Councillor Caunt, seconded by Councillor Fraser-Macnamara and

RESOLVED

- (1) That the resolution for form of indemnity, as set out in the Appendix to these minutes, be approved and adopted;

- (2) That the relevant Directors consider whether there is any need or justification for an appointment to an outside organisation before any appointment is made or recommended and that the external organisations concerned be requested to undertake regular risk assessments.

25

PROTOCOL FOR RELATIONSHIPS BETWEEN MEMBERS AND OFFICERS OF DUDLEY MBC

A report of the Cabinet was submitted.

It was moved by Councillor Caunt, seconded by Councillor Fraser-Macnamara and

RESOLVED

That the draft protocol for relationships between Members and Officers of Dudley MBC, as set out in Appendix 1 to the report now submitted, be approved and adopted.

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MEMBERS' ALLOWANCES FOR LIQUOR LICENSING RESPONSIBILITIES

A report of the Cabinet was submitted.

It was moved by Councillor Caunt, seconded by Councillor Fraser-Macnamara and

RESOLVED

- (1) That the recommendations of the Members' Allowance Independent Panel be approved, as follows:
 - (a) The payment of Special Responsibility Allowance of £2,000 to all Members of Licensing Sub-Committees for the period April, 2005 to November, 2005.
 - (b) The payment of an additional £1,000 (ie: to give a total special responsibility allowance of £3,000) to the Chairmen of the five Licensing Sub-Committees for the period April, 2005 to November, 2005.
- (2) That the Scheme for Members' Allowances be amended to read 'the allowances in this Scheme shall be varied with effect from the 1st April each year, in line with the agreed pay awards for NJC Local Government Services.'

27

ANNUAL REPORT: MEMBERS' CODE OF CONDUCT

A report of the Cabinet was submitted.

It was moved by Councillor Caunt, seconded by Councillor Fraser-Macnamara and

RESOLVED

That the annual report on the Members' Code of Conduct, and the action points set out in paragraph 2.11 of the report now submitted, be approved and adopted.

28

CORPORATE FORMAT OF REPORTS

A report of the Cabinet was submitted.

It was moved by Councillor Caunt, seconded by Councillor Fraser-Macnamara and

RESOLVED

- (1) That the revised corporate Committee report format, as set out in Appendix 1 to the report now submitted, be adopted with effect from the September/October cycle of meetings and that the Director of Law and Property be authorised to make any consequential amendments to the Council's Constitution.
- (2) That the Council's Constitution be amended by the addition of the following clause in the terms of reference of the Audit Committee and that the Director of Law and Property be authorised to amend the Constitution accordingly:

"Determination of appropriate action regarding the arrangements for the Corporate Risk Process."
- (3) That in connection with (1) above, all Directorates be reminded of the requirement to consider key corporate issues in the production of Committee reports and decision sheets.

29

ECONOMIC STRATEGY 2005/06

A report of the Cabinet was submitted.

It was moved by Councillor Jones, seconded by Councillor Fraser-Macnamara and

RESOLVED

That the revised Economic Strategy for 2005/06 be approved and adopted.

30

THE REVISED DEPOSIT UNITARY DEVELOPMENT PLAN –
RESPONSES TO THE OBJECTIONS/REPRESENTATIONS TO THE
PROPOSED MODIFICATIONS OCTOBER, 2004

A report of the Cabinet was submitted.

It was moved by Councillor Jones, seconded by Councillor Fraser-Macnamara and

RESOLVED

- (1) That the responses to the objections made to the proposed modifications to the Revised Deposit Unitary Development Plan, as detailed in Appendix 1 to the report now submitted, be approved and that the subsequent publication of the Council's Notice of Intention to Adopt the Dudley Unitary Development Plan after 28 days publication notice be also approved.
 - (2) That, with regard to the Coopers Bank site situation, as set out in Appendix 2 to the report now submitted, it be confirmed that the Council, as Planning Authority, would not welcome a planning application for residential development on the Gibbons Refractory site prior to the second phase of housing development commencing in March 2007 and that, therefore, Housing Phasing Policy (Policy H2 as modified) in the Revised Deposit Plan be invoked should a planning application for such residential development be received.
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31

FOOD SERVICE PLAN 2005/06

A report of the Cabinet was submitted.

It was moved by Councillor Mrs Shakespeare, seconded by Councillor Fraser-Macnamara and

RESOLVED

That the Food Service Plan for 2005/06 be approved and adopted.

32

SPECIAL EDUCATIONAL NEEDS STRATEGY

A report of the Cabinet was submitted.

It was moved by Councillor Vickers, seconded by Councillor Fraser-Macnamara and

RESOLVED

That the amended Special Educational Needs Strategy, as now submitted, be approved and adopted.

33

PROVISIONAL LOCAL TRANSPORT PLAN 2005/06 – 2010/11

A report of the Cabinet was submitted.

It was moved by Councillor Adams, seconded by Councillor Fraser-Macnamara and

RESOLVED

- (1) That the provisional Local Transport Plan 2 and the revised Bus Strategy be approved and adopted;
 - (2) That the Highway Improvement Strategy and the Indicative five-year programme of highway improvement schemes be approved and adopted.
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34

NOTICE OF MOTION UNDER COUNCIL PROCEDURE RULE 12

On 16th May, 2005, Councillor Fraser-Macnamara had given notice of a motion pursuant to the provisions of Council Procedure Rule 12.

It was moved by Councillor Fraser-Macnamara, seconded by Councillor Caunt and

RESOLVED

That this Council deploras the proposal by Her Majesty's Court Service (The Black Country Project) to close in its entirety the functions of Dudley County Court currently operating from Harbour Buildings, The Waterfront, Merry Hill, Brierley Hill and to transfer all the functions of the Dudley County Court to a new combined Family County Court for the Black Country in Wolverhampton and all ordinary County Court functions for the Dudley County Court area to the same Court in Wolverhampton, and calls upon the Lord Chancellor and the Department for Constitutional Affairs to refuse and reject the proposal in its current form, and to give a commitment to maintaining not only a Family County Court jurisdiction but also a full County Court jurisdiction for the Dudley County Court area within the Dudley Metropolitan Borough boundaries.

35 ANNUAL REPORT OF THE SELECT COMMITTEE ON LIFELONG LEARNING

The annual report of the Select Committee was submitted.

It was moved by Councillor Mrs Ridley, seconded by Councillor Mrs Dunn and

RESOLVED

- (1) That the annual report of the Select Committee on Lifelong Learning for 2004/05 be received.
 - (2) That the outline work programme for the Committee for 2005/06, as set out in paragraph 2.9.2 of the report now submitted, be approved.
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36 ANNUAL REPORT OF THE SELECT COMMITTEE ON CULTURE AND RECREATION

The annual report of the Select Committee was submitted.

It was moved by Councillor Southall, seconded by Councillor Attwood and

RESOLVED

- (1) That the annual report of the Select Committee on Culture and Recreation for 2004/05 be received.
 - (2) That the work programme for the Committee for 2005/06, as set out in paragraph 2.8 of the report now submitted, be approved.
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QUESTIONS UNDER COUNCIL PROCEDURE RULE 11

During questions under Council Procedure Rule 11, the Cabinet Member for Housing indicated that, if additional information could be provided, he would be prepared to review delegated Decision No. 86, in consultation with the Director of Housing.

The Council noted the need to amend references in Minute No. 15 of the Development Control Committee to read 'Lutley Mill Road Streetworks'.

There were no further decisions that the Leader, Cabinet Members or Chairmen agreed to have reconsidered.

The meeting ended at 8.50 pm

MAYOR

RESOLUTION FOR FORM OF INDEMNITY

- (1) This resolution shall take effect from the date on which it is passed and in substitution for any previous indemnity resolution.

In this resolution:-

“employees” includes any person employed by the Council and any other person engaged or appointed to be an officer of the Council.

- (2) The Council hereby indemnifies its employees and elected members, whether appointed or elected at the date of this resolution or at any time thereafter, against the costs, claims and expenses set out in paragraph (3) of this resolution, subject to the exceptions set out in paragraph (4) of this resolution, and on the terms set out in paragraph (5) of this resolution. It will not itself make any claim against them in relation to any costs or expenses for which they are hereby indemnified.

Notwithstanding any limitation on the powers of the Council, the indemnity is effective to the extent that the employee or elected member in question –

- (a) believed that the action, or failure to act, in question was within the powers of the Council, or
- (b) where that action or failure comprises the issuing or authorisation of any document containing any statement as to the powers of the Council, or any statement that certain steps have been taken or requirements fulfilled, believed that the contents of that statement were true,

and it was reasonable for that employee or elected member to hold that belief at the time when they acted or failed to act.

The indemnity is also effective in relation to any act or omission which is subsequently found to be beyond the powers of the employee or elected member in question, but only to the extent that he or she reasonably believed that the act or omission in question was within their powers at the time at which he or she acted.

- (3) The costs, claims and expenses are those which arise from, or in connection with, any action of, or failure to act by, the employee or elected member in question, which:-
- (a) results from actions or activities with outside organisations authorised by the Council; or
 - (b) forms part of, or arises from, any powers conferred, or duties placed, upon that employee or elected member, as a consequence of any function being exercised by that employee or elected member (whether or not when

exercising that function he or she does so in their capacity as an employee or member of the Council) –

- (i) at the request of, or with the approval of the Council, or
- (ii) for the purposes of the Council.

(4) The exceptions are that:-

- (a) No indemnity is given in relation to any action by, or failure to act by, any employee or elected member which –
 - (i) constitutes a criminal offence; or
 - (ii) is the result of fraud, or other deliberate wrongdoing or recklessness on the part of that employee or elected member
- (b) Notwithstanding paragraph (4)(a)(i), the indemnity does relate to –
 - (i) (subject to paragraph 5) the defence of any criminal proceedings brought against the employee or elected member; and
 - (ii) any civil liability arising as a consequence of any action or failure to act which also constitutes a criminal offence.
- (c) No indemnity is given in relation to the making by the employee or elected member or officer indemnified of any claim in relation to an alleged defamation of that elected member or officer, but the indemnity does relate to the defence by that employee or elected member of any allegation of defamation made against them.

(5) The terms of the indemnity are as follows:-

- (a) Where the indemnity has effect in relation to the defence of any criminal proceedings; or any Part 3 proceedings (meaning any investigation, report, reference, adjudication or any other proceeding pursuant to Part 3 of the Local Government Act 2000) then
 - (i) in the case of criminal proceedings, if the employee or elected member or officer in question is convicted of a criminal offence and that conviction is not overturned following any appeal, and
 - (ii) in the case of Part 3 proceedings -
 - (1) if a finding is made in those proceedings that the member in question has failed to comply with the Code of Conduct and that finding is not overturned following any appeal, or
 - (2) if the elected member admits that he has failed to comply with the Code of Conduct,

the employee or elected member shall reimburse the Council for any sums expended by it in relation to those proceedings pursuant to the indemnity, and those sums shall be recoverable by the Council as a civil debt.

- (b) The indemnity will only extend to cover actual loss and expense incurred and evidenced by the employee or member to the satisfaction of the Director of Finance.
- (c) The indemnity will not cover any loss or expense in respect of which the employee or elected member can obtain reimbursement from any other source, including any policy of insurance whether taken out by the Council or the employee or elected member by any other person.