



# MINUTES

## ANNUAL MEETING OF THE COUNCIL

28<sup>TH</sup> APRIL 2005  
2.00 p.m.

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### PRESENT

Councillor Graham Wheat in the Chair

Councillor Auger  
Councillor Mrs Bosworth  
Councillor Bryant  
Councillor Carpenter  
Councillor Mrs Cartwright  
Councillor Miss Channell  
Councillor Chivers  
Councillor Conboy  
Councillor Dorrien Dexter  
Councillor Fines  
Councillor Fisher  
Councillor Mrs Gaffigan  
Councillor Gibbins  
Councillor Helyar  
Councillor Fereshteh Hurst  
Councillor John Hurst  
Councillor Howard  
Councillor Mrs Jalili  
Councillor Joynson  
Councillor Kerr  
Councillor Kirkman  
Councillor Lovelock  
Councillor Martin-Mayhew

Councillor Nadarajah  
Councillor Mrs Neal  
Councillor Nicholson  
Councillor Parkin  
Councillor Pease  
Councillor Mrs Margery Radley  
Councillor Norman Radley  
Councillor Sandall  
Councillor Selby  
Councillor Mrs Judy Smith  
Councillor John Smith  
Councillor Stokes  
Councillor Mike Taylor  
Councillor Gerald Taylor  
Councillor Thompson  
Councillor Turner  
Councillor Mrs Mary Wheat  
Councillor Wilks  
Councillor Avril Williams  
Councillor Mike Williams  
Councillor Wood  
Councillor Mrs Woods

### OFFICERS

Chief Executive  
Corporate Manager, Democratic & Legal Services (Monitoring Officer)  
Director of Community Services

### OFFICERS

Member Services Manager  
Environmental Health Manager  
Community Safety Manager

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## 1. ELECTION OF CHAIRMAN

**DECISION:** That Councillor John Kirkman be elected Chairman of the District Council until the next annual meeting of the Council.

It was proposed by Councillor Thompson and seconded by Councillor Mrs Neal that Councillor John Kirkman be Chairman of the Council for the ensuing year. Councillor Thompson spoke in support of Councillor Kirkman, referring to his previous two terms of office as Mayor of Bourne, his service as a member of both the Lincolnshire County Council and this authority. His keen grasp of financial matters would ensure that the Council continued to operate prudently. Councillor Thompson expressed the view that a Chairman's greatest asset was his or her Consort and, with Mrs Jean Kirkman as Chairman's Lady, Councillor Kirkman had that support. Councillor Mrs Neal made mention of Councillor Kirkman's integrity and honesty commending him to the Council as a man of principle.

Councillor Mike Williams then voiced the view of the Labour group who felt the Chairmanship should be rotated amongst the groups represented on the Council. He therefore proposed Councillor Vic Kerr as Chairman of the Council. This was seconded by Councillor Avril Williams who spoke about Councillor Kerr's reputation for being an honest, competent, straight forward man who was a committed Councillor.

In view of there being two candidates for the position of Chairman, it was moved and seconded that in accordance with council procedure rule 23.1, standing orders be suspended for this item only to permit voting on the election of Chairman to be taken by show of hands. A vote in this manner resulted in 30 votes for Councillor Kirkman and 14 votes for Councillor Kerr.

Councillor Kirkman was duly invested with the chain of office, made a declaration of acceptance of office and took the chair. He thanked those who had supported him and expressed regret that it had been a contested election. The new Chairman stated he took pride in his Lincolnshire roots and pledged to support South Kesteven District Council in his new role with the assistance from his wife, Mrs Jean Kirkman.

### COUNCILLOR JOHN KIRKMAN IN THE CHAIR

## 2. VOTE OF THANKS TO THE RETIRING CHAIRMAN

A vote of thanks was made to the retiring Chairman, Councillor Graham Wheat, by Councillor Mike Taylor. The Chairman was then presented with a portrait of himself by local artist Terry Shelborne as a gift from the Council. Councillor Wheat spoke briefly about his year of office which had been an eventful one. He acknowledged the support he had received from all sections of the Council and from members of all political groups. He stated that the office of Chairman was one in he had been proud to serve and publicly thanked his wife, Councillor

Mrs Mary Wheat and Mrs Margery Radley who had also acted as his consort when Mrs Wheat had been unavailable. Councillor Wheat then presented Mrs Viv Wyatt with a token of thanks for her assistance with his secretarial support.

### **3. APPOINTMENT OF VICE-CHAIRMAN**

**DECISION: That Councillor Gerald Taylor be appointed Vice-Chairman of the Council until the next annual meeting of the Council.**

It was proposed by Councillor Conboy and seconded by Councillor Norman Radley that Councillor Gerald Taylor be Vice-Chairman of the District Council for the ensuing year. Councillor Conboy referred to Councillor Taylor's career in the RAF and his subsequent career as a teacher of mathematics. Councillor Taylor had also served as a Cabinet member.

A further nomination of Councillor Vic Kerr was proposed by Councillor Mike Williams and seconded by Councillor Yvonne Gibbins.

Again, in view of there being two candidates for the position of Vice-Chairman, it was moved and seconded that in accordance with council procedure rule 23.1, standing orders be suspended for this item only to permit voting on the election of Vice-Chairman to be taken by show of hands. A vote in this manner resulted in 30 votes for Councillor Taylor and 14 votes for Councillor Kerr.

Councillor Gerald Taylor made a declaration of acceptance of office.

### **4. APOLOGIES**

Apologies for absence were received from Councillors Bisnauthsing, Burrows, Craft, Neil Dexter, Hewerdine, Mrs Kaberry-Brown, Morris, O'Hare, Mrs Percival, and Waterhouse.

The Chairman informed the meeting that both Councillor Burrows and Councillor Neil Dexter were currently back in hospital. Councillor Mrs Dexter said that her husband's recent operation had been successful but he had subsequently become very weak and had been admitted to Leicester General hospital for investigation.

It was agreed that letters be sent on behalf of the Council to both members conveying best wishes for a speedy recovery.

### **5. DECLARATIONS OF INTEREST**

There were no declarations of interest made.

## **6. MINUTES**

The minutes of the meetings held on 24<sup>th</sup> February and 28<sup>th</sup> February 2005 were confirmed as correct records subject to Councillor Mrs Jalili's attendance at the meeting on 28<sup>th</sup> February being recorded.

## **7. COMMUNICATIONS**

The Chairman reminded members who had not yet done so to return the forms indicating their preferred dates for training to the Training & Development Manager.

## **8. APPOINTMENT OF LEADER**

**DECISION: That Councillor Mrs Linda Neal be elected as Leader of the District Council for the ensuing municipal year.**

It was proposed by Councillor Lovelock and seconded by Councillor Bryant that Councillor Mrs Linda Neal be elected as Leader of the District Council.

A member expressed his view that he felt it was important for a Leader to be dynamic and carry the authority forward. He stated he was not happy with the way in which the council had performed over the last few years, mentioning that he considered that the scrutiny panels had been largely ignored and there should be a shadow cabinet. He outlined the areas in which he considered the Council had failed to perform and expressed the opinion that the authority needed someone who was prepared to take a grasp of the situation and move the Council forward. No other nominations for Leader were forthcoming.

## **9. CABINET MEMBERSHIP AND PORTFOLIO RESPONSIBILITIES**

**DECISION:**

- (1) **To agree that the Cabinet shall comprise the Leader and six Cabinet seats;**
- (2) **To note the following membership of the Cabinet and their respective portfolio responsibilities as set out in the Chief Executive's report CEX281 (previously considered by the Council at its meeting on 24<sup>th</sup> February 2005):**

<b><u>Portfolio responsibility</u></b>	<b><u>Cabinet Member</u></b>
Economic Development	Councillor John Smith
Community Safety	Councillor Peter Martin-Mayhew (Deputy Leader)
Healthy Environment	Councillor Ray Auger

Access and Engagement	Councillor Paul Carpenter
Resources and Assets	Councillor Terl Bryant
Organisational Development	Councillor Mrs Frances Cartwright
Strategic Partnerships	Councillor Mrs Linda Neal

## 10. RE-ALLOCATION OF SEATS ON COUNCIL COMMITTEES AND PANELS

### DECISION:

**(1) To approve the following overall allocation of seats on decision making committees to ensure political balance:**

Administration	31
Labour	10
Independent	7
New Independent	5
Liberal Democrat	4

**(2) To approve the following allocation of seats on panels and committees:**

	Dev. Control			Const. & A/cs	
	Econ. & Cultural	Com.	Com. & Eng'mt	Env.	Cap. & Res
Administration	9		6		3
Labour	3		2		1
Independent	2		1		1
New Independent	2		2		
Liberal Democrat	1		1		
Admin.	5	5	5	5	5
Labour	1	2	2	2	1
Independent	1	0	2	1	1
New Ind.	1	1	0	1	1
Lib Dem	1	1	0	0	1

In his report CEX285 the Chief Executive reported that he had received notification from Councillor Hewerdine that he had left the Independent Group and joined the New independent Group. Councillor Mrs Woods and notified him

that she had joined the Independent Group. On 28<sup>th</sup> February 2005, Councillor Paul Genever had resigned from the Council. The Chief Executive summarised the implications of these group changes upon the composition of the Council.

## **11. ISSUES ARISING FOR SOUTH KESTEVEN DISTRICT COUNCIL OUT OF A REVIEW OF THE CORPORATE GOVERNANCE REPORT ON LINCOLNSHIRE COUNTY COUNCIL**

**DECISION:** That the contents of the Corporate Governance report on Lincolnshire County Council and the issues this raises for South Kesteven DC be referred to the relevant Development and Scrutiny Panel for detailed discussion and then to the Cabinet for conclusion and recommendation.

Members had before them the Chief Executive's report number CEX288 which summarised key aspects arising from the Audit Commission's report on the County Council from which he suggested a number of important lessons could be learnt by this authority. He acknowledged that the report did not make comfortable reading and challenged several long held assumptions and beliefs.

It was proposed and seconded that the report be referred to the relevant DSP and the Cabinet before the Council reaches any firm conclusions and recommendations for action. A member expressed concern that he did not see why this document should not be discussed at this meeting. He suggested it raised issues of fundamental importance, not just about Council policy but about democracy. The Council had two options; either to learn lessons in good spirit and good time or not to do that which would lead the community in painful struggle. He moved that the report be discussed at this meeting but the motion failed to find a seconder. After a member had commented on the training issues referred to in the report, a vote was taken on the motion to refer the matter to the DSP and Cabinet.

## **12. APPOINTMENTS TO THE NEW DEVELOPMENT AND SCRUTINY PANELS AND OTHER COMMITTEES OF THE COUNCIL**

**DECISION:**

- (1) To approve the revision of the remits and names of the five Development and Scrutiny Panels to accord with the Cabinet portfolios and the Council's ambitions;**
- (2) To approve the following appointments to the re-named panels and other committees of the Council and the Chairmanships and Vice-Chairmanships as indicated below:**

### **Development Control Committee**

**Councillor Chivers**  
**Councillor Neil Dexter**  
**Councillor Fines (Vice-Chairman)**  
**Councillor Helyar**  
**Councillor Howard**  
**Councillor Mrs Jalili**  
**Councillor Kerr**  
**Councillor Parkin (Chairman)**  
**Councillor Pease**  
**Councillor Mrs Percival**  
**Councillor Norman Radley**  
**Councillor Sandall**  
**Councillor Turner**  
**Councillor Stokes**  
**Councillor Waterhouse**  
**Councillor Avril Williams**  
**Councillor Mike Williams**

### **Licensing Committee**

**Councillor Mrs Bosworth**  
**Councillor Mrs Gaffigan**  
**Councillor Howard**  
**Councillor O'Hare**  
**Councillor Parkin**  
**Councillor Mrs Percival**  
**Councillor Norman Radley**  
**Councillor Turner (Vice-Chairman)**  
**Councillor Graham Wheat**  
**Councillor Mary Wheat (Chairman)**  
**Councillor Mike Williams**

### **Constitution & Accounts Committee**

**Councillor Lovelock (Vice-Chairman)**  
**Councillor Martin-Mayhew**  
**Councillor Mrs Neal (Chairman)**  
**Councillor Mike Williams**  
**Councillor Wilks**

### **Standards Committee**

**Councillor Lovelock**  
**Councillor Wilks**  
**Councillor Mike Williams**

### **Economic Development & Scrutiny Panel**

**Councillor Joynson**  
**Councillor Mrs Kaberry-Brown**  
**Councillor Nicholson (Chairman)**  
**Councillor Pease**  
**Councillor Selby**  
**Councillor Mrs Smith**  
**Councillor Stokes**  
**Councillor Thompson (Vice-Chairman)**  
**Councillor Mrs Woods**

### **Community Development & Scrutiny Panel**

**Councillor Bisnauthsing**  
**Councillor Mrs Bosworth (Chairman)**  
**Councillor Hewerdine**  
**Councillor Mrs Gaffigan (Vice-Chairman)**  
**Councillor Gibbins**  
**Councillor Sandall**  
**Councillor Mrs Smith**  
**Councillor Gerald Taylor**  
**Councillor Mrs Mary Wheat**

### **Engagement Development & Scrutiny Panel**

**Councillor Burrows**  
**Councillor Craft**  
**Councillor Conboy**  
**Councillor John Hurst**  
**Councillor Kerr**  
**Councillor Nadarajah (Vice-Chairman)**  
**Councillor Norman Radley**  
**Councillor Mike Taylor (Chairman)**  
**Councillor Mike Williams**

### **Healthy Environment Development & Scrutiny Panel**

**Councillor Miss Channell**  
**Councillor Craft (Vice-Chairman)**  
**Councillor Fisher**  
**Councillor Helyar**  
**Councillor Fereshteh Hurst**  
**Councillor Pease**  
**Councillor Mrs Marjory Radley**  
**Councillor Waterhouse (Chairman)**  
**Councillor Avril Williams**

## **Resources Development & Scrutiny Panel**

**Councillor Conboy**

**Councillor Mrs Dorrien Dexter**

**Councillor Fines**

**Councillor Kirkman (Vice-Chairman)**

**Councillor Lovelock (Chairman)**

**Councillor Morris**

**Councillor O'Hare**

**Councillor Gerald Taylor**

**Councillor Wilks**

In his report number CEX286 the Chief Executive reminded members that at the last meeting of the Council an agreement was made in principle to revise the remits and names of the DSPs so that they accorded with both the proposed Cabinet portfolios and the authority's stated ambitions. Taking into account the seat changes agreed in minute 10, the Council was asked to confirm the new names and remits of the DSPs and appoint members to these panels and other committees of the Council and to elect Chairmen and Vice-Chairmen.

A list of the current memberships was circulated at the meeting to which the Leader and the Labour Group put forward amendments. Subject to these amendments, the Leader then moved the memberships en bloc. Upon being put to the vote, the memberships were carried.

The Leader then proposed names for the Chairmanships and Vice-Chairmanships (written details of which were circulated at the meeting by the Leader) of the panels and other committees of the Council which received a seconder.

An opposition member expressed strong concern that the proposed Chairmanships and Vice-Chairmanships had been awarded disproportionately to the Administration and the New Independent Group. He suggested that this did not respect the notion of modern, inclusive democracy or draw on the talents of the Council as a whole. Amendments to the nominations were indicated for which a recorded vote was sought. The call for a recorded vote was supported in accordance with Council procedure rule 16.4

An amendment was proposed and seconded that Councillor Vic Kerr replace Councillor Fines as Vice-Chairman of the Development Control Committee.

The names of members voting either for or against the amendment are recorded below:-

**FOR**

Councillor Dorrien Dexter  
Councillor Mrs Gaffigan  
Councillor Gibbins  
Councillor Fereshteh Hurst  
Councillor John Hurst  
Councillor Howard  
Councillor Mrs Jalili  
Councillor Joynson  
Councillor Kerr  
Councillor Wilks  
Councillor Avril Williams  
Councillor Mike Williams  
Councillor Wood  
Councillor Mrs Woods

**AGAINST**

Councillor Auger  
Councillor Mrs Bosworth  
Councillor Bryant  
Councillor Carpenter  
Councillor Mrs Cartwright  
Councillor Chivers  
Councillor Conboy  
Councillor Fines  
Councillor Fisher  
Councillor Helyar  
Councillor Kirkman  
Councillor Lovelock  
Councillor Martin-Mayhew  
Councillor Nadarajah  
Councillor Mrs Neal  
Councillor Nicholson  
Councillor Parkin  
Councillor Pease  
Councillor Mrs Radley  
Councillor Norman Radley  
Councillor Sandall  
Councillor John Smith  
Councillor Mrs Smith  
Councillor Stokes  
Councillor Gerald Taylor  
Councillor Mike Taylor  
Councillor Thompson  
Councillor Turner  
Councillor Graham Wheat  
Councillor Mrs Mary Wheat

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The amendment was lost. A further vote was taken on the original motion which was carried.

**13. TIMETABLE OF COUNCIL AND COMMITTEE MEETINGS**

**DECISION: In accordance with Council procedure rule 1.1 (x) that the meetings of the Council and Committees for 2005/06 be held in accordance with the draft programme as submitted.**

The Chief Executive submitted a draft timetable for future meetings during the forthcoming municipal year, copies of which had previously been circulated to members.

## 14. REPRESENTATION ON OUTSIDE BODIES

### **DECISION:**

#### **(1) To confirm the following annual appointments:**

<b>East Midlands Regional Local Government Association (EMRLGA)</b>	-	<b>The Leader (Councillor Mrs Linda Neal)</b>
<b>East Midlands Regional Assembly</b>	-	<b>The Leader (Councillor Mrs Linda Neal)</b>
<b>Local Government Association: General Assembly</b>	-	<b>The Leader or Deputy Lead in his/her absence</b>
<b>Local Government Association: Rural Commission</b>	-	<b>Councillor Peter Martin-Mayhew (as Portfolio holder)* Councillor Bryan Helyar</b>

**\*Councillor Martin-Mayhew to hold the voting rights.**

<b>Expressions of interest for: EMRLGA Employment Forum Steering Group</b>	-	<b>Councillor John Smith</b>
<b>EMRLGA Executive Committee</b>	-	<b>The Leader (Councillor Mrs Neal)</b>

**(2) That Councillor Mrs Marjory Radley be appointed to represent this authority on the Lincolnshire County Council Health Scrutiny Committee;**

**(3) That the following members be appointed to the South Kesteven Race Equality Forum:**

**Councillor Gibbins  
Councillor Helyar  
Councillor Kirkman  
Councillor Nadarajah**

On behalf of the Administration, the Leader put forward nominations for the annual appointments to the East Midlands Regional Local Government Association and Local Government Association positions. An amendment was proposed and seconded that Councillor John Hurst remain as one of the two representatives on the Local Government Association Rural Commission.

A call for a recorded vote on the amendment was supported in accordance with Council procedure rule 16.4.

The names of members voting either for, against or abstaining from the amendment are recorded below:-

**FOR**

Councillor Mrs Gaffigan  
Councillor Gibbins  
Councillor Fereshteh Hurst  
Councillor John Hurst  
Councillor Howard  
Councillor Mrs Jalili  
Councillor Joynson  
Councillor Kerr  
Councillor Wilks  
Councillor Avril Williams  
Councillor Mike Williams  
Councillor Wood  
Councillor Mrs Woods

**AGAINST**

Councillor Auger  
Councillor Mrs Bosworth  
Councillor Bryant  
Councillor Carpenter  
Councillor Mrs Cartwright  
Councillor Chivers  
Councillor Conboy  
Councillor Fines  
Councillor Fisher  
Councillor Helyar  
Councillor Kirkman  
Councillor Lovelock  
Councillor Martin-Mayhew  
Councillor Nadarajah  
Councillor Mrs Neal  
Councillor Nicholson  
Councillor Parkin  
Councillor Pease  
Councillor Mrs Radley  
Councillor Norman Radley  
Councillor Sandall  
Councillor John Smith  
Councillor Mrs Smith  
Councillor Stokes  
Councillor Gerald Taylor  
Councillor Mike Taylor  
Councillor Thompson  
Councillor Turner  
Councillor Graham Wheat  
Councillor Mrs Mary Wheat

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**1 ABSTENTION – Councillor Miss Channell**

The amendment was lost. A further vote was taken on the original motion which was carried.

The Chairman then called for nominations to the Lincolnshire County Council Health Scrutiny Committee. Councillor Mrs Marjory Radley was proposed and

seconded. As an amendment, Councillor Howard was proposed and seconded. Members were asked to vote for one candidate. Councillor Mrs Radley received the higher number of votes (30).

Nominations were sought for four positions on the newly constituted South Kesteven Race Equality Forum. A report number HR&OD77 by the corporate Manager Human Resources & Organisational Development had been circulated with the agenda setting out the background to the formation of this group which represented part of the consultation arrangements within the Council's recently adopted Generic Equality Scheme. Six nominations were submitted. The Chairman advised members that each Councillor was permitted up to four votes; the candidates receiving the four highest number of votes would be appointed. The candidates and the number of votes each received are recorded below:

Councillor Gibbins	-	25 votes
Councillor Helyar	-	30 votes
Councillor Mrs Jalili	-	18 votes
Councillor Kirkman	-	29 votes
Councillor Nadarajah	-	31 votes
Councillor Mrs Woods	-	13 votes

## **15. NOTICES OF MOTION**

The Chief Executive advised that Councillor O'Hare, who had proposed two notices of motion, was absent from the meeting. As there was no specific provision in the Constitution regarding whether a motion could be put in the absence of the mover, the motions would be held over until the next Council meeting on 26<sup>th</sup> May 2005. The Chairman informed members that the Chief Executive had advised Councillor O'Hare to amend the wording of his first motion in order to comply with Council procedure rules.

## **16. REVIEW OF COUNCIL PRIORITIES**

### **DECISION:**

- (1) To adopt the targets set within the Chief Executive's report number CEX283 for both Affordable Housing and Recycling;**
- (2) That the classification for Affordable Housing be reconsidered at a future date.**

On behalf of the Cabinet, the Leader presented report number CAB1 which explained that following the Cabinet's careful consideration of the Chief Executive's report number CEX283, the outcome of the residents' survey, and comments from all the DSPs, it had come to the conclusion to concur with the revised targets for Affordable Housing and Recycling. The Cabinet also recommended that Affordable Housing remain a Category B priority but that this

status be subject to future review. The Cabinet's recommendations were seconded.

An amendment was proposed and seconded that Affordable Housing be moved to a Category A priority as the outcome of the recent Housing Inspection had indicated that the Council's progress to date represented a step change. In support of the amendment, a member stated that, at the very least, moving this issue to a Category A priority was symbolically important for those in the community living without homes. The Chief Executive was asked what was the definition of Affordable Housing.

The Chief Executive responded by stating there was no statutory definition of the term; it was up to local housing authorities to determine their definition and then implement it through its housing policy. South Kesteven's definition lent towards properties managed by social landlords. Asked for clarification on what the Inspectors' regarded as a step change, the Chief Executive emphasised that the Audit Commission's report into the Council's Housing Service was not yet in the public domain. He could therefore only refer to what they said in their de-briefing; the comments made in relation to step change were only in relation to targets already written, not those proposed.

The Leader commented that the Cabinet had made its decision having considered the representations of the DSPs and the information before it. Whether Affordable Housing was a category A or B priority would not prevent the Council providing every unit of affordable housing it possibly could. She stressed that, ahead of the publication of the Audit Commission's report, it would be inappropriate to re-classify this issue.

A vote was taken on the amendment which was lost. A further vote on the original motion was carried.

## **17. SOUTH KESTEVEN DISTRICT COUNCIL ANTI-SOCIAL BEHAVIOUR AND ENFORCEMENT POLICY**

**DECISION: To adopt the South Kesteven District Council Anti-Social Behaviour and Enforcement Policy and to note that new policy initiatives will be referred to the Cabinet.**

The Director of Community Services introduced this policy document which the Cabinet had endorsed at its meeting held on 4<sup>th</sup> April 2005. It represented the Council's duty under Section 17 of the Crime & Disorder Act to have a corporate response to crime and disorder issues. The document had also been fully supported by the Crime and Disorder Reduction Partnership at its meeting held on 6<sup>th</sup> April 2005.

A member stated that an important question on this issue was "Who Cares?". He referred to a play that was being put on in the Guildhall Arts Centre the next day by young people on the subject of anti-social behaviour. He urged all

members to go and see the play. These comments were endorsed by another member who expressed the opinion that all members should go out into the community to understand what was going on; this was the only way in which informed decisions could be made. The Director was asked if a flow chart could be produced to assist members in responding to questions on this issue. He was also asked how the policy would enable the Council to make a step change in this category A priority.

The Director replied that a flowchart would be part of the detailed action plan which followed this document. There were two aspects to achieving the step change. Firstly, activities to engage young people such as referred to earlier involving arts and leisure, and secondly, the tougher enforcement element such as the application of anti-social behaviour orders. The adoption of the policy was so moved and seconded and carried following a vote.

## **17. AMENDMENTS TO THE CONSTITUTION: DELEGATIONS TO OFFICERS**

### **DECISION:**

**(1) The head of Waste and Contract Services be included as an authorised officer for the purposes of the enforcement of litter, waste and dog fouling in respect of the following statutes:**

**The Environmental Protection Act 1990  
The Refuse Disposal (Amenity) Act 1978  
Dogs (Fouling of Land) Act 1996**

**(2) The Head of Waste and Contract Services be authorised to designate in writing any other officers that are to be authorised by the Council to enter premises for these various statutory purposes and also to act in respect of the enforcement of the various statutory provisions relating to waste, dog fouling and fly tipping within these statutes.**

Members had before them report number DLS35 by the Corporate Manager, Democratic & Legal seeking amendments to the delegations to officers listed in the Constitution in order to reflect operational changes concerning the enforcement of dog fouling, fly tipping and litter legislation. The amendments were so moved and carried following a vote.

## **18. AMENDMENTS TO THE CONSTITUTION: RECOMMENDATIONS OF THE CONSTITUTION AND ACCOUNTS COMMITTEE**

### **DECISION: To agree the following amendments to the Constitution:**

**(1) That a written response where information is available be given to questions without discussion prior to the Council meeting. Supplementary questions to be allowed. Any questions that cannot be**

answered at the meeting to be forwarded to the relevant DSP for discussion and a full answer supplied for the next Council meeting;

- (2) The main debate be removed from the Constitution;
- (3) Rule 16 (c) of the Overview and Scrutiny Procedure Rules be amended to read:

**“During that period, the proper officer shall call-in a decision for scrutiny by the panel if so requested by the Chairman or any five members of the Council from any political group(s). No one member shall request more than three call-ins in any one municipal year. The proper officer shall notify the decision-taker of the call-in. he/she shall call a meeting of the panel on such a date as he/she may determine, where possible after consultation with the Chairman of the panel, and in any case as soon as possible after the meeting.”**

The Leader presented the recommendations of the Constitution & Accounts Committee as contained within the Corporate Manager, Democratic & Legal Services' report number DLS34. These recommendations were made in order to help reduce the length of Council meetings.

The three amendments were voted upon separately. The vote on the proposal to provide written responses to questions without discussion where information is available resulted in an equality of votes. The Chairman used his casting vote in favour of the motion.

## **19. HIGH HEDGES LEGISLATION: ANTI-SOCIAL BEHAVIOUR ACT 2003 - OPERATIONAL ISSUES**

### **DECISION:**

- (1) The following functions be added to the Development Control Committees' remit:-

**“Functions relating to high hedges pursuant to Part 8 of the Anti-Social Behaviour Act 2003.”**

- (2) The following powers be delegated to the Development Control Services Manager:-

**(i) to deal with all complaints in relation to high hedges made pursuant to Part 8 of the Anti-Social Behaviour Act 2003 and any regulations issued thereunder;**

**(ii) to authorise persons to exercise the power of entry pursuant to Section 74 and 77 of the Anti-Social Behaviour Act 2003.**

- (3) That a member panel of not less than three members be created to determine complaints requiring a hearing pursuant to Part 8 of the Anti-

**Social Behaviour Act 2003. The member panel to be drawn from members of the Development Control Committee.**

**(4) That the Council recommends to the Cabinet that it determines the maximum fee for dealing with High Hedge complaints under Section 68 of the Anti-Social Behaviour Act 2003.**

In his report number DLS24, the Corporate Manager, Democratic & Legal Services set out the new statutory duty imposed upon the District Council in relation to complaints about high hedges and the requirement to put in place the necessary procedures, fees, delegations and authorisations in order to implement the requirements when brought into force. The Office of the Deputy Prime Minister had indicated that this was likely to be within the next few months. The Corporate Manager stated that the Development Control Committee was generally supportive of the regime and the proposed delegation of powers to that committee would sit with the committee's quasi-judicial role.

Discussion began by a member expressing concern that the Government had passed this responsibility to local authorities without any financial support. Whilst he welcomed legislation to empower the Council to act where trees and hedges were blighting the life of people living nearby, he urged caution in the wording of the recommendations before the meeting. He questioned the need for qualifications to decide if trees are a problem and proposed that the requirement for a member panel to be drawn from the Development Control Committee either be deleted or amended to refer to people who have had planning training.

The member went on to refer to the recommendation that the maximum fees to apply be in line with planning application fees. He regarded this as a punitive charge and proposed that a charge of £50 be made which could be returned to the complainant if the complaint was judged to be justified.

An amendment was then moved and seconded to accept the recommendations as presented.

A number of members spoke on this issue, commenting on the need for the panel to be politically balanced, the delegation to the Development Control Committee, and the appropriate level of fee.

The Corporate Manager responded to these points. He stated that the panel would not be politically balanced and stressed the fact that it would be carrying out a quasi-judicial function. Members would be stepping into the realm of neighbour disputes and would therefore have to approach these matters with a quasi-judicial mindset. Appropriate training would be a necessary pre-requisite. For these reasons he urged the Council to think very carefully about the proposal that this matter is dealt with by the Development Control Committee. Furthermore, he warned that there would be no short cut in these procedures; it was likely to be considerably expensive in terms of member and officer time.

On the basis of the advice given, with the consent of his seconder, the proposer of the original motion agreed to withdraw his amendment to delete the reference to a member panel from the Development Control Committee.

A vote was taken on the amendment to agree the recommendations as printed which was lost. A vote was then taken on the original motion (as subsequently amended) and carried.

## **20. QUESTIONS WITHOUT DISCUSSION**

Three questions had been submitted prior to the meeting.

Verbatim details of the questions, together with supplementary questions and the responses are set out in the appendix to the minutes.

## **21. CLOSE OF MEETING**

The meeting closed at 5.20 p.m.



