



# Walsall Council

Minutes of the **ADJOURNED MEETING** of the Council of the Walsall Metropolitan Borough held on **Wednesday 24th May, 2006, at 6.00 p.m.** at the Council House.

## Present

### Councillor Mrs. B.V. McCracken (Mayor) in the Chair

#### Councillor A.J.A. Andrew

“ T.G. Ansell  
“ D.A. Anson  
“ M. Arif  
“ C.M. Ault  
“ J.M. Barton  
“ L.A. Beeley  
“ A.G. Bentley  
“ Mrs. J. Beilby  
“ M.A. Bird  
“ P. Bott  
“ M.R. Burley  
“ B. Cassidy  
“ K. Chambers  
“ A.G. Clarke  
“ R.J.H. Collins  
“ J. R. Cook  
“ S.P. Coughlan  
“ C.U. Creaney  
“ B.A. Douglas-Maul  
“ A.E. Griffiths  
“ A.D. Harris  
“ L.A. Harrison  
“ E.F. Hughes  
“ A.D. Johnson  
“ H. Khan  
“ S.W. Madeley  
“ Ms. R.A. Martin

#### Councillor Mrs. C. Micklewright

“ M. Nazir  
“ J.G. O'Hare  
“ T.S. Oliver  
“ A.J. Paul  
“ G. Perry  
“ J.D. Phillips  
“ K. Phillips  
“ D.J. Pitt  
“ Mrs. E.E. Pitt  
“ I.C. Robertson  
“ R.S. Robinson  
“ J. Rochelle  
“ B. Sanders  
“ H.S. Sarohi  
“ K. Sears  
“ Mrs. D.A. Shires  
“ I. Shires  
“ C.D.D. Towe  
“ D.J. Turner  
“ W.T. Twedde  
“ A. Underhill  
“ R.A. Walker  
“ G. Wilkes  
“ V.G. Woodruff  
“ M. Yasin  
“ P.A. Young  
“ Zahid Ali

**11. Announcement by Mayor**

The Mayor announced that she intended to allow Councillor Ansell to address the Council in accordance with paragraph 17.02 of the Scrutiny procedure rules to report a decision taken as a matter of urgency on 15th May, together with the reasons for urgency.

The Mayor stated that she considered that the matter should be dealt with as one of urgency at this meeting of the Council because there had been considerable press coverage relating to this matter which was the subject of the decision and to wait until the next meeting of Council would in her opinion not be in keeping with transparent decision making in relation to the matter.

**12. Declarations of interest**

Councillor Sears declared a personal interest in Acorn Home Care.

**13. Results of local elections – 4th May 2006**

The report was submitted.

**Resolved**

That the contents of the report be noted.

**14. Formation of political groups and appointments on Committees**

The report was submitted.

**Resolved**

(1) That the Council notes the receipt of returns from political groups.

(2) That members be appointed to serve on Committees for the municipal year 2006/2007 as follows:

**Audit Committee**

Councillors Chambers, Griffiths, Martin, D. Pitt, Robertson, D.A. Shires, Turner.

**Appointments Board**

Councillors Ansell, O'Hare, K. Phillips, I. Shires

2 Cabinet members relevant to the appointment

1 member of Labour Group relevant to the appointment

## **Development Control Committee**

Ward:

Councillor:

Aldridge Central and South  
Aldridge North and Walsall Wood  
Bentley & Darlaston North  
Birchills-Leamore  
Blakenall  
Bloxwich East  
Bloxwich West  
Brownhills  
Darlaston South  
Paddock  
Palfrey  
Pelsall  
Pheasey Park Farm  
Pleck  
Rushall-Shelfield  
Short Heath  
St. Matthews  
Streetly  
Willenhall North  
Willenhall South

Rochelle  
Collins  
Madeley  
J. Phillips  
Robinson  
Beeley  
M. Pitt  
Turner  
Burley  
Zahid  
Yasin  
Ault  
Bird  
Anson  
Micklewright  
Cook  
Khan  
Douglas-Maul  
Bentley  
Underhill

## **Employment Appeals “A”**

Councillors Beilby, Chambers, Cook, Douglas-Maul, Griffiths, Sarohi, Turner

## **Employment Appeals “B”**

Councillors Arif, Burley, Cassidy, Harris, Martin, E.E. Pitt, Tweddle.

## **LEA Governor Appointment Panel**

Councillors Anson, Hughes, D.A. Shires, Towe, Yasin.

## **Licensing and Safety Committee**

Councillors Barton, Beeley, Beilby, Bentley, Cassidy, Clarke, Harris, Johnson, Micklewright, Robinson, Rochelle, Sears, Tweddle, Wilkes.

## **Standards Committee**

Councillors Bentley, Khan, O'Hare, Underhill

Independent members: Dr. K. Biscomb, Ms. K. McLeod, Mrs. S. Parsons, Mr. R. Taylor (2 vacancies)

### **Children's and Young People Scrutiny and Performance Panel**

Councillors Arif, Bird, Cassidy, Chambers, Creaney, Khan, Martin, Micklewright, E.E. Pitt.

together with representatives from:-

- Lichfield Diocesan Education (1 - voting)
- Archbishop of Birmingham (1 - voting)
- Parent Governors (3 - voting)
- Primary Education Teacher (1 - non-voting)
- Secondary Education Teachers (1 - non-voting)

### **Neighbourhood Scrutiny and Performance Panel**

Councillors Aslam, Ault, Beeley, Beilby, Bott, Burley, K. Phillips, Towe, Woodruff.

### **Health Social Care and Inclusion Scrutiny and Performance Panel**

Councillors Ault, Barton, Griffiths, McCracken, Micklewright, Oliver, D. Pitt, Robertson, Woodruff.

### **Regeneration Scrutiny and Performance Panel**

Councillors Anson, Arif, Clarke, Coughlan, Hughes, M. Pitt, Robinson, I. Shires, Yasin.

### **Corporate Scrutiny and Performance Panel**

Councillors Bird, J. Phillips, Griffiths, Rochelle, Sarohi, D.A. Shires, Towe, Turner, Young.

## **15. Petitions**

The following petitions were submitted:

- (1) Councillor K. Phillips – planning application 05/2370/FL/E4 – land at junction of Broad Lane and Sneyd Lane, Bloxwich
- (2) Councillor Andrew – planning application 06/0642/E8 – erection of 11 flats at 152 Beacon Road
- (3) Councillor Coughlan – Thompson Street, Willenhall vehicles access to Park Road development
- (4) Councillor Nazir – Broadway West playing field

**16. Appointment of Leader of the Council**

It was **moved** by Councillor O'Hare and seconded by Councillor Zahid:-

That Councillor T.G. Ansell be appointed Leader of the Council for the municipal year 2006/2007.

On being put to the vote the motion was declared carried and it was:-

**Resolved**

That Councillor T.G. Ansell be appointed Leader of the Council for the municipal year 2006/2007.

**17. Appointment of Deputy Leader of the Council**

It was **moved** by Councillor Ansell and seconded by Councillor Zahid:-

That Councillor J.G. O'Hare be appointed Deputy Leader of the Council for the municipal year 2006/2007.

On being put to the vote the motion was declared carried and it was:-

**Resolved**

That Councillor J.G. O'Hare be appointed Deputy Leader of the Council for the municipal year 2006/2007.

**18. Timetable of meetings 2006/2007**

The report was submitted.

**Resolved**

That the report and timetable of meetings for the municipal year 2006/2007 be approved, subject to Darlaston Local Neighbourhood Partnership on 3rd January being moved to 10th January 2006.

**19. Appointment of members to the Executive**

A list was circulated around the Council Chamber prior to the meeting.

It was **moved** by Councillor Ansell, duly seconded and:-

## Resolved

That the following members be appointed to the Cabinet for the municipal year 2006/2007:-

Description of portfolio	Name of portfolio holder
1. <b>Leader of the Council</b> - overall responsibility for Vision for 2008, the corporate plan, communications and public relations, city region agenda, government relations and liaison with local MPs and West Midlands leaders. Local Area Agreement and Local Strategic Partnership.	Councillor Ansell
2. <b>Children's services</b> - education services, including relationship with Education Walsall, social services for children, safeguarding and promoting welfare of children, looked after children and corporate parenting, care leavers, interagency cooperation, involvement of children and young people, youth parliament, children's trust arrangements, youth offending services, youth service, summer activities programme, school meals, school music services	Councillor Zahid
3. <b>Environment and street pride</b> - traffic and transportation, car parks, waste management, clean and green agenda, sustainability, environmental health, cemeteries and crematoria, licensing, pollution control, Coroner Service and Registrars.	Councillor Walker
4. <b>Leisure and culture</b> - parks, leisure and culture services including the Art Gallery, libraries, adult learning, sports, museums and twinning. Mayor's Office.	Councillor Harrison
5. <b>Regeneration and enterprise</b> - economic development, urban regeneration company (URC), physical development, environmental regeneration, markets, New Deal for Communities (NDC), Black Country Consortium, West Midlands regeneration issues. Town and district centres, gateways and corridors. Planning policy, strategic transport and highways, and local development framework.	Councillor Andrew

Description of portfolio	Name of portfolio holder
6. <b>Resources</b> - strategic and operational financial management, insurance and policy led budgeting. Property, financial regulations, audit, legal services, constitutional services.	Councillor O'Hare
7. <b>Safer stronger communities, partnerships and vision 2021</b> - local neighbourhood partnerships, community engagement and consultation, local area plans, community associations, community safety agenda, Safer Walsall Partnership, equalities and diversity, voluntary and community sectors, customer contact.	Councillor Perry
8. <b>Social care, health and housing</b> - care services for older people and people with learning disabilities, people with physical disabilities and people with mental health needs, health partnership and the public health agenda, community meals and supporting people. Strategic housing role, housing partnerships, private sector housing, homelessness, and relationship with Walsall Housing Group (WHG).	Councillor Paul
9. <b>Transformation and performance management</b> - performance management, strategic procurement, risk management and information technology and human resources and organisational development (including Member development).	Councillor Longhi

## 20. **Appointment of Chairmen and Vice-Chairmen of Committees**

A list was circulated around the Council Chamber prior to the meeting.

It was **moved** by Councillor Ansell, duly seconded and:-

### **Resolved**

That the following members be appointed Chairmen and Vice-Chairmen for 2006/2007:-

<b>Committee</b>	<b>Chair</b>	<b>Vice-Chair</b>
Audit	Councillor Turner	Councillor Martin
Appointments Board	Councillor Ansell	Councillor O'Hare
Development Control	Councillor Collins	Councillor Beeley
Employment Appeals A	Councillor Douglas-Maul	Councillor Beilby
Employment Appeals B	Councillor Harris	Councillor Tweddle
LEA Governor Appointment Panel	Councillor Hughes	Councillor Yasin
Licensing and Safety	Councillor Sears	Councillor Tweddle
Children's and Young People Scrutiny and Performance Panel	Councillor Bird	Councillor E.E. Pitt
Corporate Scrutiny and Performance Panel	Councillor Griffiths	Councillor Sarohi
Health, Social Care and Inclusion Scrutiny and Performance Panel	Councillor Oliver	Councillor D. Pitt
Neighbourhood Scrutiny and Performance Panel	Councillor Towe	Councillor Burley
Regeneration Scrutiny and Performance Panel	Councillor I. Shires	Councillor M. Pitt

## 21. **Suspension of Council procedure rules**

At this point in the meeting it was **moved** by the Mayor, seconded by Councillor O'Hare and:-

### **Resolved**

That Council procedure rule 9 be suspended to enable the remaining items of business on the summons to be dealt with.



## 22. **Appointments on outside bodies and charities**

A list was circulated around the Council Chamber prior to the meeting and the nominations were made as set out.

### **(a) Outside bodies**

#### **Local Government Association**

Councillors Ansell (2 votes), Douglas-Maul, Oliver, I. Shires.

#### **West Midlands Local Government Association Council**

Councillor Ansell (4 votes) (Councillor Douglas-Maul alternate)  
Councillors Oliver (2 votes) (Councillor Coughlan alternate)  
Councillor I. Shires (1 vote) (Councillor E.E. Pitt alternate)

#### **West Midlands Local Government Association Provincial Council**

Councillors Griffiths (Councillor Harris substitute)

#### **West Midlands Local Government Association Planning Partnership**

Councillors Griffiths (4 votes) and Douglas Maul (Councillors Micklewright and Harris alternative members)  
Councillor Oliver (2 votes) (Councillor Coughlan alternate)  
Councillor Cook (1 vote) (Councillor Bentley alternate)

#### **West Midlands Fire and Rescue Authority**

Councillors Douglas-Maul, M.G. Pitt and Coughlan and that Councillors Douglas-Maul and M.G. Pitt be nominated to answer questions on Fire and Rescue matters during 2006/2007.

#### **West Midlands Passenger Transport Authority**

Councillors Clarke, Longhi and Chambers and that Councillors Clarke and Longhi be nominated to answer questions on Passenger Transport matters during 2006/2007.

#### **West Midlands Joint Committee**

Councillors Ansell (voting), O'Hare (non-voting) and Oliver (non-voting)

#### **Advantage West Midlands Regeneration Zone**

Councillor Andrew

#### **Birmingham Airport Holdings Limited – Board**

Councillor Collins

**Black Country Consortium**

Councillor Ansell (or nominee)

**Black Country Groundwork Trust**

Councillor Longhi

**Black Country Investment: Management Group**

Councillor O'Hare (or nominee)

**Black Country Museum Trust**

Councillor Harrison

**Black Country Small Business Service Board**

Councillor Towe

**Forest of Mercia**

Councillors Andrew, Anson, E.E. Pitt.

**Investigation of Air Pollution Standing Conference**

Councillor Walker

**Safer Walsall Borough Partnership**

Councillor Perry

**Steps to Work (Walsall) Limited**

Councillor Ansell

**South Staffs Water – Customer Consultative Committee**

Councillor Douglas-Maul

**Supporting People Commissioning Governing Body**

Councillor Paul

**Walsall Helping Generations**

Councillors Andrew, Paul, Robertson

**Walsall and Wolverhampton Transport Users Advisory Committee**

Councillor Douglas-Maul

**Walsall Arts Council**

Councillors Douglas-Maul, Chambers

**Walsall Citizens Advice Bureau**

Councillors J. Phillips, Rochelle

**Walsall College of Continuing Education**

Councillors Cassidy, Martin

**Walsall Community Transport**

Councillor Clarke

**Walsall Education Business Partnership**

Councillors Griffiths, Towe

**Walsall Museum and Arts Galleries Development Trust**

Councillor Harrison

**Walsall Society for the Blind**

Councillors Barton, Martin

**West Midlands Joint Committee – Community Safety Sub-Committee**

Councillor Perry

**West Midlands Planning and Transportation Sub-Committee**

Councillors Longhi (voting), Douglas-Maul (non-voting), Chambers (substitute)

**West Midlands Superannuation Committee, Investment Advisory Sub-Committee and Joint Consultative Panel**

Councillors Zahid (voting), Chambers (substitute)

**Housing Groups**

The following nominations were received as set out on the list circulated:-

**Walsall Housing Group**

Councillors Coughlan, Sanders, I. Shires

### **Darlaston Housing Group**

Councillor Burley

The following nominations were made to housing groups

### **Aldridge Brownhills Housing Group**

Councillor Paul 34 votes

Councillor Cassidy 19 votes

### **Bloxwich Housing Group**

Councillor Beeley 35 votes

Councillor Young 19 votes

### **Central Walsall Housing Group**

Councillor Yasin 35 votes

Councillor Nazir 19 votes

### **Willenhall Housing Group**

Councillor Creaney 19 votes

Councillor Cook 35 votes

and it was:-

### **Resolved**

That the following members be appointed to Housing Groups for the municipal year 2006/2007:-

Walsall: Councillors Sanders, Coughlan, I. Shires

Aldridge Brownhills: Councillor Paul

Bloxwich: Councillor Beeley

Central Walsall: Councillor Yasin

Darlaston: Councillor Burley

Willenhall: Councillor Cook

### **New Deal Board**

The following nominations were made:-

Councillor Beeley 35 votes

Councillor K. Phillips 19 votes

### **Resolved**

That Councillor Beeley be appointed to serve on the New Deal Board for 2006/2007.

## **(b) Charities**

### **Resolved**

That the following members be appointed to serve on the following Charities for 2006/2007:

#### **Blanch Woollaston Charity**

Councillor Bott

#### **Merrions Wood Trust**

Councillor Andrew

#### **Roger Hinton's Charity**

The Mayor and Deputy Mayor

#### **School Holiday Camp Fund of Walsall**

Councillor Micklewright

#### **Shelfield Playing Fields Charity**

Councillor Walker

#### **Walsall Enterprise Trust**

Councillors Beilby, Coughlan, Rochelle

## **(c) Advisory and statutory bodies**

#### **Adoption Panel**

Councillor Paul

#### **School Organisation Committee**

Councillors Bird, Cassidy, Chambers Griffiths, Micklewright, E.E. Pitt, Walker

#### **Standing Advisory Council for Religious Education**

Councillors Ault, Bentley, Cassidy, K. Phillips, Rochelle, Turner, Yasin

#### **Walsall Education Board**

Councillors Cassidy, E.E. Pitt, Zahid

## **Walsall Admission Forum**

Councillors Chambers, E.E. Pitt, Turner, Walker

### **23. Statement by the Leader re: Employment Tribunal matters**

The Leader made the following statement:-

As members are aware, a special Cabinet meeting was held on 15th May in order to agree the approach to be taken by the Council at an Employment Tribunal to commence later that day.

As required by the Constitution I wish to report to this, the next available full Council, on the decisions reached at that special Cabinet.

Initially, however, it would seem appropriate and helpful for me to give you some background factual detail to set the meeting and its decisions into a clear context. All members have received the full briefing note over the weekend which comprehensively explains the background in considerable detail. I would therefore like to pull out the broad facts to remind you all of what was contained in the briefing note.

Mr Francis resigned in June 2005 claiming he had been constructively dismissed and that the Council and the Chief Executive had failed to make reasonable adjustments under the Disability Discrimination Act. He had already lodged a claim at the Tribunal for allegedly suffering detriments after making protected disclosures (commonly known as “whistleblowing”). These three claims were due to be heard on 15th May 2006.

The Council and the Chief Executive did not recognise that Mr Francis’s health issues amounted to a disability under the DDA. But on 30th March 2006 the Tribunal declared that they did. This meant that all the actions taken by the Council and Chief Executive up to that point had to be considered under the DDA, and the Council automatically became potentially liable to this part of the claim.

Had this case gone to a full Tribunal hearing, no Cabinet approval would have been needed. Cabinet only needed to meet formally if there were key decisions to be made on either a settlement or an admission.

The time of any Cabinet meeting depended on whether we were going to seek a settlement or concede. With the hearing due to start on Monday, Cabinet members were called on Friday 12th May and advised they might need to meet early Monday morning. This was confirmed on Friday afternoon after the relevant permissions from the Mayor and Chair of Resources Scrutiny had been obtained. It was essential to avoid compromising the Council’s negotiating position by risking the case strategy becoming known by Mr Francis and his representative – hence the 8 am start time immediately before the Tribunal.

The case evolved continuously over several weeks. As the evidence (11 lever arch files of documents and 33 witness statements) was gathered, it became clear that the Council would have difficulty in defending at least two of the claims.

Also, two of our key witnesses were ex-employees who had declined to give witness statements. Therefore, witness orders from the Tribunal were obtained requiring their attendance. It was impossible to know what they would say if forced to give evidence.

Briefings were provided to me, some of which were attended by the Deputy Leader, as things developed. Once the evidence had been gathered and considered by our barrister he advised that the council couldn't win on two points and we should try to settle. Officers received authority to negotiate an economic settlement. Such negotiations are normal in most legal disputes and between 70-80% of Employment Tribunals are ultimately resolved in this way.

Originally, it was anticipated that the Cabinet would meet to consider a settlement. But this could only happen if a tentative settlement was agreed. This could have happened at any point up to and including the actual start of the hearing. But by Friday no settlement had been agreed and the prospect of achieving one over the weekend seemed remote.

By the Friday afternoon - after a long meeting with our barrister, officers and the Chief Executive's external solicitor, it seemed likely that Mr Francis would proceed to Tribunal.

Knowing our position was extremely weak, our barrister advised that concessions should be made on at least two and possibly all three of the claims. The details were worked up over the weekend – an enormous amount of work. Further advice was received from the barrister on Saturday and Sunday when it was confirmed that concessions on two of the points was the best way forward. The Cabinet report was finalised late on Sunday night once final barrister's advice had been received.

The earliest possible time for a meaningful Cabinet meeting was early Monday morning. Until then, there were no definite options to consider. This also enabled the council's position to remain absolutely confidential being so close to the start of the Tribunal.

The Cabinet met to make decisions on how to proceed at the Tribunal - due to start at 10.00 a.m. This was a major decision and members would want to fully understand and debate the issues – so the 8.00 am start gave about an hour and a half to do this. The Cabinet was advised by the Instructing Client (Dave Martin) Deputy Monitoring Officer and Chief Finance Officer. The barrister, Chief Executive, lawyers and witnesses waited at the Tribunal for the decision. Dave Martin joined the Tribunal before 10 am.

The Cabinet needed to approve the terms of the concessions. It was also expected that, as usual, this Tribunal would see a flurry of last minute negotiations. So the Cabinet needed to approve limits for a possible negotiated settlement.

Given the barrister's advice – the favoured option was to make some admissions on the DDA and unfair dismissal claims, but not to all of the cases, and to defend the whistleblowing matter.

Following a long debate, Cabinet agreed parameters and agreed the following resolutions:

- (1) That the Executive Director (Instructing Client) be authorised on behalf of the Council to admit liability in relation to the two heads of claim relating to unfair dismissal and discrimination under the Disability Discrimination Act 1995 (DDA).
- (2) That as a result of the above action, the Executive Director (Instructing Client) be authorised on behalf of the Council to undertake one of the following courses of action as deemed appropriate according to the evolving circumstances on Monday morning:
  - (a) Negotiate the withdrawal by the claimant of the third head claim relating to protected disclosures, as a condition of conceding liability on the other two points, including making an interim payment if this is considered appropriate.
  - (b) As (a) but to offer a modest sum by way of a commercial settlement that recognises the Council's costs associated with continuing to defend the claim (ie officers' time, legal and other relevant costs) up to a cap of £35k.
  - (c) Negotiate an overall settlement in relation to all three heads of claim up to the limits set out in the settlement section of the financial considerations of this report, including making the necessary payments and administrative arrangements, noting that final precise figures may vary arising from actual investment, taxation and/or pensions calculations.
  - (d) That if settlement on the above terms proves impossible, that any changes be effected in consultation with the Leader and Deputy Leader of the Council and reported back to Cabinet at the earliest opportunity.
- (3) To note that the inability to conclude matters under (2)(a) and/or (b) will result in the Council defending the third head of claim relating to protected disclosures, which is discussed later in the report.
- (4) That the Executive Director (Chief Finance Officer) be authorised to account for these costs in the most appropriate manner within the Council's revenue budget and reserves.
- (5) That the Leader urgently requests the District Auditor to commence an independent investigation into the facts and circumstances of this case and that a report be received by Cabinet in due course.



The Cabinet decision was phoned through to Dave Martin at the Tribunal. The Tribunal allowed negotiations to take place. In line with Cabinet approvals, the barrister conceded liability on behalf of the Council on constructive dismissal and on behalf of the Council and the Chief Executive on one point under the DDA claim (that they had failed to make reasonable adjustments that would allow him to compete for a post). This was accepted by Mr Francis.

Mr Francis received an unreserved apology from both the Council and the Chief Executive and an agreed reference. A joint press release was agreed. As a result, Mr Francis withdrew all other allegations under the DDA against the Council and the Chief Executive. Guided by this, the Chair of the Tribunal judged these claims to be dismissed.

The Council could not admit liability for the whistleblowing claim as there was no evidence of intent. Therefore, we were set to defend this part of the case – which would have involved many of the 33 witnesses and taken most of the 10 days set aside by the Tribunal. Therefore, in the face of a two week hearing involving significant legal fees and witness expenses an economic settlement was reached. This is normal practice.

The amount of compensation to be paid to Mr Francis on the DDA and unfair dismissal concessions will be decided by the Tribunal later this year. The figures of between £750,000 and £1 million quoted in the press are not accepted by the Council. They appear to be based on Mr Francis's assessment under a "worst case scenario" rather than a more realistic view based on our barrister's advice. Specialists will be jointly appointed to provide health, employment and actuarial reports which the tribunal will use to determine the compensation.

Meanwhile, the Council has voluntarily agreed to make an interim payment of £60k. This caps some of the claims that Mr Francis's could make and the council's liability, which will minimise the ultimate settlement.

Assessing the level of compensation is complex and subjective. There is no single formula which will give a definitive value. Once the experts' reports are ready, our barrister will be able to advise on the likely level of compensation. The sum already paid will offset the final award – which will be in the public domain. Meanwhile, the parties could reach an agreed settlement, but the council has no plans to settle at this stage.

The Cabinet report showed some examples to determine if a settlement was appropriate and if so, what the financial impact would be. This was done having regard to what the Tribunal was likely to award at the end of a full hearing as calculated by our barrister.

Had the Council attempted to defend all three claims, a punitive award may have been made because we knew before we started that there was no meaningful defence on two of the points. The Tribunal was likely to have taken a dim view of such conduct. By making the admissions that we did, the Council will gain credit in the eyes of the Tribunal when assessing the level of compensation. The Tribunal chair concluded his remarks by congratulating all parties in their mature approach in reaching an early resolution.

The DA has already started his investigation and papers have been handed over. The DA has said he would have been undertaking an investigation in any case, even if Cabinet had not asked him to. The terms of reference for this independent investigation are to establish what went wrong, any gaps or weaknesses in the council's procedures and - where those procedures were not followed - why this was. The DA will review all the documents collected for the tribunal and will interview officers and other witnesses.

The DA's investigation will therefore go ahead and I and the Cabinet have full confidence in its robustness and independence. When Mr Gregory is ready to announce his findings this will be a public document and one which will demand a response and quite probably assurances and actions from the Council.

I have, however, been requested by the other Group Leaders to commission an investigation apart from that to be carried out by the District Auditor and, notwithstanding what I have said with regard to Mr Gregory, I am happy to receive proposals from them as to who would be seen as sufficiently detached from the Council to carry the confidence of all parties.

I will let you know when I have reached a decision on this and how I plan to proceed.

Finally, I would like to address the matter of the spend of the Neighbourhood Renewal Fund which was the focus of many of Mr Francis' concerns and where a great deal of inaccurate information has been published in the local press. It is quite correct to say that since its creation in 2000, Walsall like most of the rest of the country has been working through the complexity of governance that surrounded this new funding opportunity. This was made more complicated in Walsall by the teething troubles in the development of the Local Strategic Partnership which is the vehicle through which NRF decisions were made (as opposed to the Council, which is the accountable body). It is a matter of public record that errors were made in some of the processes and we were keen to learn from these early mistakes. Indeed, addressing these issues was a key element of the Council's recovery plan that was negotiated with and agreed by central government. As we have regularly and freely acknowledged, Internal Audit have issued 3 audit reports and on each occasion the Council has either been exonerated or robustly addressed any weaknesses identified. These are and have been available for any member to look at. An independent examination of Walsall Council's partnership and governance undertaken in June 2005 highlighted the strength in governance arrangements and the quality of the financial monitoring. It is therefore my view that the issues raised by Mr Francis were either not supported by audit findings, or have already been addressed by the Council.

It is very important that we learn from all that has happened to create this situation that we find ourselves in and that we do everything necessary to ensure that we never find ourselves here again. I share with all my fellow councillors an absolute commitment to a full and objective investigation to inform our future actions. It is equally important that we proceed openly and fairly and that we do nothing to compromise the formal processes of the Tribunal or the District Auditor's investigation.

Walsall has achieved a great deal over the recent past and we need to return as quickly as we can to building on this for the benefit of the people of the borough.

I have made this full and detailed statement hopefully to address concerns of members and a copy of it will be circulated to you very shortly. I am happy to answer questions, but it is important to recognise that some of the detailed information may not be available tonight and may require a written reply. Also, there may be some areas where members may have a legitimate interest, but where it is not appropriate to share detail at this stage in order to protect the integrity of the Tribunal and formal investigations.

It was **moved** by Councillor Ansell, duly seconded and:-

**Resolved**

That Council procedure rules 11.1 and 11.8 be suspended for the duration of this item.

A general discussion followed the Leader's statement as a result of which, the Leader undertook to reply to the following questions which he was unable to answer at this meeting:-

- (1) Councillor Young – Why was the tribunal delayed twice at the request of this Council? The Leader undertook to reply in writing to Councillor Young.
- (2) Councillor Phillips – Why was there no liability insurance? The Leader undertook to reply to Councillor Phillips by letter.
- (3) Councillor E.E. Pitt –Would there be any reason why the Police should not be invited to investigate the situation? Councillor Ansell replied that it was for the three leaders to decide a way forward and he undertook to meet with the leaders of the other two parties to discuss who would carry out the investigation.

**24. End of year scrutiny review**

The report was submitted.

**Resolved**

That the report be noted.

## **Uncompleted business from meeting held on 24th April 2006**

### **25. Notice of motion – anti-social behaviour**

It was **moved** by Councillor I. Shires, seconded by Councillor D.A. Shires and:-

#### **Resolved**

This Council notes that one of the most high profile social problems today is anti-social behaviour. Its effects can be debilitating to communities and particularly worries older people. It's not simply a problem of intimidating behaviour. Graffiti, littering, noise pollution and decaying urban spaces all contribute to the feeling that our communities are slipping out of control.

This Council believes that anti social behaviour orders can work.

This Council supports the call for ASBO PLUS.

This Council believes there are actions we should try before issuing an ASBO.

Local communities have a central role in finding a solution to anti-social behaviour.

Community Justice Panels – made up of victims and volunteers from the local community – are potentially an effective way of modifying behaviour.

The scheme would give the public an unprecedented say in the way that local crime problems are dealt with, as well as offering offenders a way to pay back for the harm they have done to their community. Going before one of the panels would be a very uncomfortable experience. Offenders will see the anger and hurt they cause to those living in their streets and their communities.

### **26. Notice of motion – Sustainable Communities Bill**

It was **moved** by Councillor I. Shires and seconded by Councillor D.A. Shires:-

That Walsall Metropolitan Borough Council:

- (i) expresses concern at
  - the decline of local services and facilities which affects local communities and in particular the elderly and people on the lowest incomes;
  - the resulting decline of local jobs and local economies and the resulting extra traffic and pollution caused by the need to travel further;

- (ii) and notes that this combination of factors increases people's feelings of exclusion and lack of involvement; and so
- (iii) supports measures to reverse this process and
- (iv) supports the concept of local sustainability as envisaged in the Sustainable Communities Bill, namely:
  - the promotion of local economies
  - the promotion of local services and facilities
  - the protection of the environment
  - the reduction of social exclusion and
  - measures to increase involvement in the democratic process
- (v) and accordingly resolves to support the Sustainable Communities Bill which:
  - requires the Government to assist Councils and communities in promoting local sustainability in ways decided by them; and
  - sets up a participative process whereby Councils and communities can drive the way in which Government uses its power and influence to assist with the promotion of local sustainability; and
  - recognises therefore that the Bill provides for a "bottom up" rather than a "top down" one-size fits-all process
  - notes that this Bill is therefore fully in accord with current thinking in Local Government in that it impacts on central authorities and does not impose any new duties on Councils but instead enables them to influence how Government uses its resources and influence to help Councils and communities; and
  - specifically provides that where Councils themselves decide to take action to promote local sustainability that they should be given the resources to do so; and so
- (vi) and further resolves
  - to inform the local media of this decision;
  - to write to local MPs, asking them to support the Bill; and sign EDM (Early Day Motion) No. 641; and
  - to write to the Local Works Campaign (at 94 White Lion Street, London, N1 9PF) expressing its support.

**Amendment** moved by Councillor Zahid and seconded by Councillor Ansell:-

That Walsall Metropolitan Borough Council:

- (i) supports the concept of local sustainability as envisaged in the Sustainable Communities Bill, namely:

- the promotion of local economies
- the promotion of local services and facilities
- the protection of the environment
- the reduction of social exclusion and
- measures to increase involvement in the democratic process

(ii) and accordingly resolves to support the Sustainable Communities Bill which:

- requires the Government to assist Councils and communities in promoting local sustainability in ways decided by them; and
- sets up a participative process whereby Councils and communities can drive the way in which Government uses its power and influence to assist with the promotion of local sustainability; and
- recognises therefore that the Bill provides for a “bottom up” rather than a “top down” one-size fits-all process
- notes that this Bill is therefore fully in accord with current thinking in Local Government in that it impacts on central authorities and does not impose any new duties on Councils but instead enables them to influence how Government uses its resources and influence to help Councils and communities; and
- specifically provides that where Councils themselves decide to take action to promote local sustainability that they should be given the resources to do so; and so

(iii) and further resolves

- to inform the local media of this decision;
- to write to local MPs, asking them to support the Bill; and sign EDM (Early Day Motion) No. 641; and
- to write to the Local Works Campaign (at 94 White Lion Street, London, N1 9PF) expressing its support.

At this point in the meeting the time being 8.00 p.m. the meeting was adjourned for 5 minutes in order to enable the Monitoring Officer to consider the validity of the amendment.

The meeting recommenced at 8.05 p.m.

The Monitoring Officer informed the Council that the amendment was in order.

On being put to the vote the amendment was declared lost – 17 members voting in favour and more against.

On being put to the vote the motion was declared carried and it was:-

**Resolved**

That Walsall Metropolitan Borough Council:

- (i) expresses concern at
  - the decline of local services and facilities which affects local communities and in particular the elderly and people on the lowest incomes;
  - the resulting decline of local jobs and local economies and the resulting extra traffic and pollution caused by the need to travel further;
- (ii) and notes that this combination of factors increases people's feelings of exclusion and lack of involvement; and so
- (iii) supports measures to reverse this process and
- (iv) supports the concept of local sustainability as envisaged in the Sustainable Communities Bill, namely:
  - the promotion of local economies
  - the promotion of local services and facilities
  - the protection of the environment
  - the reduction of social exclusion and
  - measures to increase involvement in the democratic process
- (v) and accordingly resolves to support the Sustainable Communities Bill which:
  - requires the Government to assist Councils and communities in promoting local sustainability in ways decided by them; and
  - sets up a participative process whereby Councils and communities can drive the way in which Government uses its power and influence to assist with the promotion of local sustainability; and
  - recognises therefore that the Bill provides for a "bottom up" rather than a "top down" one-size fits-all process
  - notes that this Bill is therefore fully in accord with current thinking in Local Government in that it impacts on central authorities and does not impose any new duties on Councils but instead enables them to influence how Government uses its resources and influence to help Councils and communities; and
  - specifically provides that where Councils themselves decide to take action to promote local sustainability that they should be given the resources to do so; and so

(vi) and further resolves

- to inform the local media of this decision;
- to write to local MPs, asking them to support the Bill; and sign EDM (Early Day Motion) No. 641; and
- to write to the Local Works Campaign (at 94 White Lion Street, London, N1 9PF) expressing its support.

The meeting terminated at 8.40 p.m.