



Council Supplement

Town Hall
Wallasey

9 July 2010

Dear Councillor

This supplement, for the Council meeting to be held at **6.15 pm on Monday, 12 July 2010** in the Council Chamber, within the Town Hall, Wallasey, should be read in conjunction with the Council Summons dated 2 July 2010.

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AGENDA

5. **MATTERS REQUIRING APPROVAL BY THE COUNCIL (Pages 1 - 12)**

To consider matters referred to the Council for determination.

- (i) Minute 36 Cabinet (24/6/2010) Insurance Fund Annual Report
- (ii) Minute 43 Cabinet (24/6/2010) Integrated Regeneration Study for Birkenhead and Wirral Waters
- (iii) Indemnities for Members and Officers – To consider a report from the Director of Law, HR and Asset Management. (Report attached).

9. **MATTERS FOR DEBATE (Pages 13 - 26)**

Pursuant to Standing Order 5(1)(m), and in accordance with Standing Order 5(3), to consider written comments, objections or amendments to minutes submitted under Standing Order 7(2), together with those motions, submitted under item 9 above, that the Council agrees to

debate at this meeting and any minority reports submitted in accordance with Standing Order 35(4).

10. VACANCIES (Pages 27 - 28)

To receive nominations, in accordance with Standing Order 25(6), in respect of any proposed changes in the membership of the Cabinet and committees, and to approve nominations for appointments to outside organisations.

A handwritten signature in black ink, appearing to be 'B. M.', followed by a long horizontal flourish.

Director of Law, HR and Asset Management

WIRRAL COUNCIL

COUNCIL – 12 July 2010

REPORT OF THE DIRECTOR OF LAW, HR AND ASSET MANAGEMENT

Indemnities for Members and Officers

1. Executive Summary

- 1.1 This reports sets out the current powers available to local authorities in relation to the provision of indemnities to elected Members and Officers. The report proposes that Council agrees that Members and officers (and other persons appointed, or nominated by the Authority to outside bodies) be appropriately indemnified.

2. Background

- 2.1 Members and officers make decisions and take action in what they believe to be the public interest. In addition, every year, Council approves the appointment of a large number of Members, officers and others to represent the authority on outside bodies. These appointees do valuable work and contribute to many outcomes that benefit the public. However, sometimes these appointments are to positions as directors of companies, or as trustees. These latter sorts of appointment, in particular, place on the appointees onerous legal duties to act in the best interest of the Company, or the beneficiaries of the trust.
- 2.2 On the rare occasions when things go wrong it is possible that legal claims might be brought against individuals, particularly where they have acted as company directors or trustees. In the current economic climate where public and third sector funding is increasingly uncertain, the likelihood of outside organisations getting into difficulties has probably increased. In this situation, it is recommended that Council recognises the need for Members and Officers when they are properly and lawfully going about pursuing the public interest to be protected by indemnities, including when they are acting in roles to which they have been appointed by the Authority.
- 2.3 Following some concerns about local authorities indemnifying members and officers in bringing defamation actions, councils were given express powers to grant indemnities to Members and officers under sections 101 and 105 of the Local Government Act 2000 ('the 2000 Act', subject to conditions and limitations set out in the Local Authorities (Indemnities for Members and Officers) Order 2004 ('the 2004 Order'). The 2004 Order thus provided a framework for those circumstances in which the authority may provide an indemnity to any of their Members or officers. However, the powers in the 2000 Act and the 2004 Order are in addition to any other pre-existing powers that local authorities had, including, in particular, Section 111 of the Local Government Act 1972. This power permits a local authority to do anything that is 'calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions'. This latter power is relevant in relation to ensuring that indemnity protection can be extended to those who are acting within the extent of their delegated authority on behalf of the authority but who are neither Members nor Officers and who have

been appointed to act as a representative of the authority on an outside body. It is recommended that any indemnity agreed include these individuals.

- 2.4 A copy of the text of the 2004 Order is reproduced as Appendix 1 to this report. Article 4 of the 2004 Order makes it clear that an indemnity may be provided by means of the authority securing the provision of an insurance policy for the Member or officer. It is recommended that the Director of Finance be given delegated authority to put in place such insurance arrangements as he considers being in the Council's best interest in relation to the Council indemnifying Members and officers (and other persons appointed by or nominated to outside bodies by the authority).
- 2.5 Article 5 of the 2004 Order sets out the cases in which indemnities (including those provided by insurance) may be provided. This Article restricts the power to cases in which the Member or Officer is carrying on any function at the request of, with the approval of, or for the purposes of, the authority. However, it does also extend to cases when exercising the function in question, the Member or Officer does so in a capacity other than that of a Member or Officer of the authority. So, this would permit an indemnity, for example, to cover a case where a Member or Officer acts as a Director of a company at the request of the authority, and thus is acting in a capacity as a Director/Trustee.
- 2.6 Article 6 of the 2004 Order prevents the provision of an indemnity (or securing of insurance) in relation to criminal acts, any other intentional wrongdoing, fraud, recklessness, or in relation to the bringing of (but not the defence of) any action in defamation.
- 2.7 Article 7 of the 2004 Order gives a limited power to provide an indemnity (including any indemnity provided by insurance) where the action or inaction complained of is outside the powers of the authority itself or outside the powers of the Member or Officer who acts. It also covers cases in which a Member or Officer makes a statement that certain steps have been taken or requirements have been fulfilled but it later becomes clear that this is not the case. This power is, however, limited to cases in which the person indemnified:
- (a) reasonably believes that the matter in question was not outside the powers in question, or
 - (b) where a document has been issued containing an untrue statement as to the authority's powers, or as to the steps taken or requirements fulfilled, reasonably believed that the statement was true when it was issued or authorised.
- 2.8 Articles 5, 6 and 7 of the 2004 Order impose reasonable limitations on the provision of indemnity and it is recommended that these limitations are applied to all indemnities given.
- 2.9 Article 8 of the 2004 Order gives the authority freedom to negotiate such terms for any indemnity or policy of insurance as it thinks appropriate but requires that those terms include repayment for sums expended by the authority or the insurer in cases where a Member has been found to be in breach of the Code of Conduct applicable to him as a Member of the Authority (following proceedings instituted as a result of a complaint to the authority or Standards for England (formerly the Standards Board)) or if a Member or Officer has been convicted of a criminal offence (if the indemnity or

insurance policy will otherwise cover the proceedings leading to that finding or conviction). Any sums recoverable by the Council may be recovered as a civil debt.

3. Financial implications

- 3.1 The provision of an indemnity is a contingent liability and so at this stage cannot be quantified, as it is dependent upon whether qualifying events arise at some stage in the future.

4. Staffing implications

- 4.1 If approved, these recommendations will ensure that an appropriate arrangement is made to indemnify employees of the authority when acting in good faith in the best interest of local people.

5. Equal Opportunities implications

- 5.1 None directly arising from this report.

6. Community Safety implications

- 6.1 None directly arising from this report.

7. Local Agenda 21 implications

- 7.1 None directly arising from this report.

8. Planning implications

- 8.1 None directly arising from this report.

9. Anti-poverty implications

- 9.1 None directly arising from this report.

10. Human Rights implications

- 10.1 None directly arising from this report.

11. Social Inclusion implications

- 11.1 None directly arising from this report.

12. Local Member Support implications

- 12.1 If approved, these recommendations will ensure that an appropriate arrangement is made to indemnify Members of the authority when acting in good faith in the best interest of local people.

13. Background Papers

- 13.1 None.

14. Recommendations

- 14.1 That Council agrees that Members, officers (and other persons appointed to or nominated by the Authority to outside bodies) be indemnified with immediate effect in relation to any claims brought after 12 July 2010 to the maximum extent permitted by law (including by virtue of the Local Government Act 2000, the Local Authorities (Indemnities for Members and Officers) Order 2004 and Section 111 of the Local Government Act 1972) subject in all cases to the limitations set out in Articles 5, 6 and 7 of the 2004 Order.
- 14.2 That the Director of Finance be given delegated authority to put in place such insurance arrangements as he considers to be in the Council's best interest in relation to the Council indemnifying Members and officers (and other persons appointed by or nominated to outside bodies by the authority).

Bill Norman

Director of Law, HR and Asset Management

2004 No.3082

LOCAL GOVERNMENT, ENGLAND AND WALES

**The Local Authorities (Indemnities for Members and Officers)
Order 2004**

Made - - - - - *22nd November 2004*

Coming into force - - - - - *23rd November 2004*

The First Secretary of State, in exercise of the powers conferred upon him by sections 101 and 105 of the Local Government Act 2000(a) and having consulted representatives of relevant authorities, representatives of employees of relevant authorities and such other persons as he considered appropriate hereby makes the following Order, of which a draft has been laid before, and approved by, resolution of, each House of Parliament:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Local Authorities (Indemnities for Members and Officers) Order 2004.

(2) It shall come into force on the day after that on which it is made.

(3) In this Order—

“Part 3 proceeding” means any investigation, report, reference, adjudication or any other proceeding pursuant to Part 3 of the Local Government Act 2000; and

“secure”, in relation to any indemnity provided by means of insurance, includes arranging for, and paying for, that insurance and related expressions shall be construed accordingly.

Application

2. This Order applies to relevant authorities in England(b) and to police authorities in Wales(c).

Indemnities

3. The authorities to whom this Order applies may, in the cases mentioned in article 5 below, provide indemnities to any of their members(d) or officers.

(a) 2000 c. 22.

(b) For the meaning of “relevant authority”, see section 49(6) of the Local Government Act 2000.

(c) For powers in relation to relevant authorities in Wales, see section 105(2) of the Local Government Act 2000.

(d) For the meaning of “member”, see sections 49(6) and 101(5) of the Local Government Act 2000 and, in relation to elected mayors, the Local Authorities (Elected Mayors) (England) Regulations 2004 (S.I. 2004/1815).

Insurance

4. In place of, or in addition to, themselves providing an indemnity under article 3 above, any authority to whom this Order applies may, in the cases mentioned in article 5 below, provide an indemnity by securing the insurance of any of its members or officers.

Cases in which an indemnity may be provided

5. Subject to article 6 below, an indemnity may be provided in relation to any action of, or failure to act by, the member or officer in question, which—

- (a) is authorised by the authority; or
- (b) forms part of, or arises from, any powers conferred, or duties placed, upon that member or officer, as a consequence of any function being exercised by that member or officer (whether or not when exercising that function he does so in his capacity as a member or officer of the authority)—
 - (i) at the request of, or with the approval of the authority, or
 - (ii) for the purposes of the authority.

Restrictions on indemnities

6.—(1) No indemnity may be provided under this Order in relation to any action by, or failure to act by, any member or officer which—

- (a) constitutes a criminal offence; or
- (b) is the result of fraud, or other deliberate wrongdoing or recklessness on the part of that member or officer.

(2) Notwithstanding paragraph (1)(a), an indemnity may be provided in relation to—

- (a) subject to article 8 below, the defence of any criminal proceedings brought against the officer or member; and
- (b) any civil liability arising as a consequence of any action or failure to act which also constitutes a criminal offence.

(3) No indemnity may be provided under this Order in relation to the making by the member or officer indemnified of any claim in relation to an alleged defamation of that member or officer but may be provided in relation to the defence by that member or officer of any allegation of defamation made against him.

Matters that exceed the powers of the authority or member or officer

7.—(1) Notwithstanding any limitation on the powers of the authority which grants an indemnity, the authority may provide an indemnity to the extent that the member or officer in question—

- (a) believed that the action, or failure to act, in question was within the powers of the authority, or
- (b) where that action or failure comprises the issuing or authorisation of any document containing any statement as to the powers of the authority, 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 member or officer to hold that belief at the time when he acted or failed to act.

(2) An indemnity may be provided in relation to an act or omission which is subsequently found to be beyond the powers of the member or officer in question but only to the extent that the member or officer reasonably believed that the act or omission in question was within his powers at the time at which he acted.

Terms of indemnity or insurance

8.—(1) Subject to paragraphs (2) and (3) below, the terms of any indemnity given (including any insurance secured), under this Order may be such as the authority in question shall agree.

(2) Paragraph (3) applies where any indemnity given to any member or officer (including any insurance secured for that member or officer) has effect in relation to the defence of—

- (a) any criminal proceedings; or
- (b) any Part 3 proceedings.

(3) Where this paragraph applies, the indemnity shall be provided, and any insurance secured, on the terms that—

- (a) in the case of criminal proceedings, if the member or officer in question is convicted of a criminal offence and that conviction is not overturned following any appeal, and
- (b) in the case of Part 3 proceedings—
 - (i) 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
 - (ii) if the member admits that he has failed to comply with the Code of Conduct,

that member or officer shall reimburse the authority or the insurer (as the case may be) for any sums expended by the authority or insurer in relation to those proceedings pursuant to the indemnity or insurance.

(4) Where a member or officer is obliged to reimburse an authority or insurer pursuant to the terms mentioned in paragraph (3) above, those sums shall be recoverable by the authority or insurer (as the case may be) as a civil debt.

Signed by authority of the First Secretary of State.

Nick Raynsford
Minister of State

in the Office of the Deputy Prime Minister

22nd November 2004

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for circumstances in which a relevant authority in England or a police authority in Wales may provide an indemnity to any of their members or officers. The Local Authorities (Elected Mayors) (England) Regulations 2004 (S.I. 2004/1815) provide that the term “member” shall, in this context, include any elected mayor. These powers are in addition to any existing powers that such authorities may have (such as powers under section 111 of the Local Government Act 1972). The relevant authorities in England are—

- county councils;
- district councils;
- London borough councils;
- parish councils;
- the Greater London Authority;
- the Metropolitan Police Authority;
- the London Fire and Emergency Planning Authority;
- the Common Council of the City of London (in its capacity as a local or police authority);
- the Council of the Isles of Scilly;
- a fire authority constituted by a combination scheme under the Fire Services Act 1947;
- a police authority;
- a joint authority established by Part IV of the Local Government Act 1985;
- the Broads Authority;
- a National Park Authority established under section 63 of the Environment Act 1995.

Article 4 makes it clear that an indemnity may be provided by means of the authority securing the provision of an insurance policy for the member or officer.

Article 5 sets out the cases in which indemnities (including those provided by insurance) may be provided. This article restricts the power to cases in which the member or employee is carrying on any function at the request of, with the approval of, or for the purposes of, the authority. However, it does extend to cases in which when exercising the function in question the member or officer does so in a capacity other than that of a member or officer of the authority. This would permit an indemnity, for example, to cover a case where the member or officer acts as a director of a company at the request of his authority, and thus is acting in his capacity as a director.

Article 6 prevents the provision of an indemnity (or securing of insurance) in relation to criminal acts, any other intentional wrongdoing, fraud, recklessness, or in relation to the bringing of (but not the defence of) any action in defamation.

Article 7 gives a limited power to provide an indemnity (including any indemnity provided by insurance) where the action or inaction complained of is outside the powers of the authority itself or outside the powers of the member or officer who acts. It also covers cases in which a member or officer makes a statement that certain steps have been taken or requirements fulfilled but it later becomes clear that this is not the case. This power is limited to cases in which the person indemnified—

- reasonably believed that the matter in question was not outside those powers, or
- where a document has been issued containing an untrue statement as to the authority’s powers, or as to the steps taken or requirements fulfilled, reasonably believed that the statement was true when it was issued or authorised.

Article 8 gives the authority freedom to negotiate such terms for any indemnity or policy of insurance as it thinks appropriate but requires that those terms include provision for re-payment of sums expended by the authority or the insurer in cases in which a member has been found to be in

breach of the Code of Conduct applicable to him as a member of the authority, or a member or officer has been convicted of a criminal offence (if the indemnity or insurance policy would otherwise cover the proceedings leading to that finding or conviction). Any sums recoverable may be recovered as a civil debt.

A regulatory impact assessment has been prepared in relation to these Regulations. A copy may be obtained from Local Government Legislation Division, Office of the Deputy Prime Minister, Zone 5/D1, Eland House, Bressenden Place, London, SW1E 5DU (telephone 020 7944 4148; e-mail lgl@odpm.gsi.gov.uk).

STATUTORY INSTRUMENTS

2004 No.3082

LOCAL GOVERNMENT, ENGLAND AND WALES

**The Local Authorities (Indemnities for Members and Officers)
Order 2004**

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Council – 12 July 2010

MATTERS FOR DEBATE

The Council is asked to consider the following motions, submitted in accordance with the notice required by Standing Order 8(1), and objections and amendments submitted in accordance with Standing Order 7(2).

The order of business is as determined by the party groups in accordance with Standing Order 5(3) and the times for speeches by Standing Order 12(8) (all other speakers have 3 minutes).

1. MOTION: THE STATE OF THE COUNCIL'S FINANCES

Proposed by Councillor Steve Foulkes (7 minutes)

Seconded by Councillor Phil Davies (3 minutes)

This Council recognises that the previous administration left the Council's finances in a healthy state and rejects any accusation that it built up unreasonable and unsustainable debts.

AMENDMENT

Proposed by Councillor Jeff Green (7 minutes)

Seconded by Councillor Lesley Rennie (3 minutes)

Delete all after 'This Council recognises' and replace with:

that debts eventually have to be repaid and that the current level of Council debt is costing £11 million a year to service in interest. Such levels of debt make the Council vulnerable to fluctuations in market interest rates.

Council also notes that while the current Deputy Leader of the Labour Group has suggested that urgent action is required, as Wirral is 'burning', the current Leader of the Labour Group has stated that the Council finances are in a 'healthy state'.

AMENDMENT

Proposed by Councillor Simon Holbrook (7 minutes)

Seconded by Councillor Stuart Kelly (3 minutes)

Add to end of motion:

In particular Council notes that, over the 3 years of the previous Labour / Liberal Democrat administration, £37.5m was saved from the Council Budget and that the accounts for 2009-10 just closed indicate that the Council underspent its Budget by £315,000.

However, notwithstanding this success, Council acknowledges that following the former Chancellor Alistair Darling's Budget of 2009; the Director of Finance has reported at various times the need for further savings of between £60m and £80m between 2011 and 2014, and that the Deputy Leader of the Council has consistently warned of the major challenges this poses.

Following the first Budget of the Coalition Government, Council now has the current Budget gap confirmed at the upper end of the previously reported range.

Council condemns the financial and regulatory mismanagement of the previous Labour Government, which in combination with the global financial crisis has resulted in the worst national debt crisis in living memory.

Council recognises that it is this failure which is the root cause of the public spending reductions which will now impact on local people and services.

Right of reply: Councillor Steve Foulkes (7 minutes)

2. MOTION: BIN CHARGING

Proposed by Councillor Simon Holbrook (7 minutes)

Seconded by Councillor Gill Gardiner (3 minutes)

- (1) This Council welcomes the announcement by the Communities Secretary that powers to allow councils to charge households according to the amount of waste thrown out have been ruled out.
- (2) Council believes that local flexibility to operate household waste and recycling collection schemes according to what works best for that particular area is the best way to increase recycling rates.
- (3) Council is pleased to note the current high levels of bin collection rates in Wirral, the improvements to contract quality, service delivery and working practices that have been implemented over the last three years and congratulates the Director of Technical Services, the Waste Management Team and those councillors involved for their hard work in this area to achieve this.
- (4) Council also commends the positive response from Wirral residents and notes that our residents recycled more dry recycling than any other Merseyside district (2009/10).
- (5) However, Council also believes that more can to be done to divert waste away from landfill and further increase recycling.
- (6) Therefore, Council requests that the Director of Technical Services continues to examine new ways to reduce waste to landfill, such as through the introduction of food waste collections (taking account of existing work undertaken to date), the collection of recyclable material from businesses, increasing the range of recyclable material that can be taken to the council's recycling collection points

and working with MWDA to increase the range of materials that can be placed in grey bins.

- (7) The Director is also requested to investigate the feasibility and cost effectiveness of introducing a recycling rewards scheme to incentivise households to do more to recycle.

AMENDMENT

Proposed by Councillor John Salter (7 minutes)

Seconded by Cllr Denise Roberts (3 minutes)

Insert new paragraph 7 – renumber current paragraph 7 accordingly.

Council stresses that any new ways of reducing waste to landfill, such as the collection of food waste, must not take place at the expense of any other front line services, nor must it be allowed, through reduction in resources or any other way, to reduce the present high standard and reliability of waste collection across the borough.

Right of reply: Councillor Holbrook (7 minutes)

3. MOTION: THE BUDGET

Proposed by Councillor Phil Davies (7 minutes)

Seconded by Councillor Steve Foulkes (3 minutes)

- (1) This Council recognises that action needs to be taken to address the financial challenges arising from the global recession. However, it notes that according to the Institute of Fiscal Studies, the measures set out by the Chancellor of the Exchequer in the Budget on the 22 June, are “regressive” with cuts to public services which will hit “poorer households significantly harder than richer households”.

(2) Council condemns:

- (i) The £5.5m of cuts in revenue which the Government has instructed this Council to find in this financial year, and the £4m loss of Capital. This is part of the £6bn of cuts which during the general election campaign the Liberal Democrats argued was unnecessary.
- (ii) The proposed increase in VAT from 17.5% to 20%. This will be profoundly regressive and breaks an explicit promise made during the election by both the Conservatives and the Liberal Democrats.
- (iii) The proposed cuts of £11bn in welfare benefits which will hit the poorest members of communities the hardest.

- (iv) The proposed 25% cuts in departmental spending, which, if applied to Local Government grant, would leave Wirral needing to find up to £100m cuts over three years. Again, these departmental cuts will impact disproportionately on people in the poorest communities who rely more on public services than residents elsewhere.
- (3) Council notes that the motion passed by the Cabinet on the 24 June fails to identify a single penny of savings and proposes measures such as the ending of sandwiches for members which will realise a tiny fraction of the savings targets for the next 3 years. Furthermore, the announcement of 8 reviews of various issues indicates that the administration has no clear vision of the future.
- (4) Council calls on the ruling coalition to lobby their Government to reverse their cuts which will bring huge job losses and misery to hundreds of Wirral residents and adopt the more reasonable deficit-reduction plan proposed by the Labour Party which had already started to reduce the deficit and placed greater emphasis on asking those on higher incomes to pay more and avoided cuts to front-line services.
- (5) Council condemns the utter hypocrisy of the Liberal Democrats who, by agreeing to measures such as an increase in VAT, have surrendered any claims to be a Party of progressive values and are helping to deliver the ideological agenda of the right wing of the Tory Party. Council recognises that the Labour Party is now the only progressive Party in Britain and calls on all those who previously supported the Lib Dems to join Labour and help defend the attacks on public services and the poorest members of the community by the Coalition Government.

AMENDMENT

Proposed by Councillor Jeff Green (7 minutes)

Seconded by Councillor Lesley Rennie (3 minutes)

Delete all after '(1) This Council recognises that action needs to be taken to address the financial challenges arising from the global recession' *and replace with:*

and recognises the distress, anger and upset caused to people across Wirral, including some of the most deprived communities by the previous Government, such as cuts to public services and abolition of the 10p starting rate of Income Tax for the lowest paid.

- (2) Council also notes that while other countries went into recession later and returned to growth faster, the UK economy suffered the longest period of recession and the longest domestic recession since the 1930s.
- (3) Council believes that the action taken by the Coalition Government will restore the nation's finances and also enable fairer, greener taxes and protection for the most vulnerable, including:

- Raising the personal allowance for under 65s by £1,000 in April 2011, with the gains limited to basic rate taxpayers. The Government estimates that the 880,000 lowest income taxpayers will be removed from tax altogether.
- the introduction of a levy based on banks' balance sheets and action on unacceptable bank bonuses.
- freezing council tax In 2011-12, in partnership with local authorities.
- a triple guarantee to help pensioners by uprating the Basic State Pension by earnings, prices or 2.5 per cent, whichever is highest.
- an increase in the child element of the Child Tax Credit of £150 above CPI indexation.

AMENDMENT

Proposed by Councillor Simon Holbrook (7 minutes)

Seconded by: Councillor Bob Moon (3 minutes)

Delete all after 1st sentence in paragraph (1) – and insert:

and the financial and regulatory mismanagement of the previous Labour Government. Council notes that the overall impact of all the measures in the Chancellor's Budget of 22nd June was progressive, building on the coalition's principles of freedom, fairness and responsibility.

(2) Council recognises that a series of progressive measures were announced in the Chancellor's Budget that will:-

- (i) lift at least 850,000 low-paid taxpayers out of income tax.
- (ii) restore the link between the state pension and earnings (or prices or 2.5%, whichever is higher).
- (iii) provide an extra £150 a year for the poorest families, through changes to family tax credits.
- (iv) increase capital gains tax to 28% for top rate taxpayers.

(3) Council recognises that the public understands that action is needed to address the unsustainable levels of government debt and applauds the initiative taken nationally by the Coalition Government and locally by Wirral's Cabinet to engage with the public on their priorities for future public spending of taxpayer's money. Council further notes that this represents a continuation of the Council's policy on engagement agreed with all party support on 15th February 2010.

(4) Council is outraged but not surprised at the utter hypocrisy of the Labour Party for its failure to be honest with the public about the scale and impact of the budget reductions needed as a result of its own party's mistakes in government, and for suggesting that the Conservatives and Liberal Democrats are wrong to consult the public on the difficult challenges that lie ahead.

Right of reply: Councillor Phil Davies (7 minutes)

4. MOTION: POSSIBLE ACADEMY SITES

Proposed by Councillor Stuart Kelly (7 minutes)

Seconded by Councillor Ann Bridson (3 minutes)

- (1) Council notes the decision of Cabinet of 27 May to 'go the extra mile in identifying an alternative site for the new academy'.
- (2) Council considers that the sites identified below should not be further investigated for the stated reasons:
 - (a) The site by Shaftesbury Youth Club playing fields – because the board of trustees have made it very clear that they would not be prepared to sell their land to the Council.
 - (b) The site of Prenton High School - because the land is subject to a PFI contract until 2031.
 - (c) The site of Bedford Drive Primary School – because there are no plans to close or relocate the School.
 - (d) The site of Hind Street former gasworks - because it is within 150m of two large gasometers.
 - (e) Land at Mersey Park Tranmere – because of the unacceptable loss of park land involved.

AMENDMENT

Proposed by Councillor Jeff Green (7 minutes)

Seconded by Councillor Paul Hayes (3 minutes)

Delete all, other than:

Council notes the decision of Cabinet of 27 May to 'go the extra mile in identifying an alternative site for the new academy'.

AMENDMENT

Proposed by Councillor Phil Davies (7 minutes)

Seconded by Councillor Chris Meaden (3 minutes)

Delete everything and insert the following:

- (1) Council notes the resolution passed by Cabinet on 27 May, 2010 which instructed the Director of Children's Services to explore further whether a suitable site and funding might be available to accommodate the Academy as a new build.
- (2) This Council believes that it would be inappropriate to reach a conclusion on specific sites until the Director has had an opportunity to provide a full report back to Cabinet on the pros and cons of all potential sites in order to ensure that an informed decision is taken.

Right of reply: Councillor Stuart Kelly (7 minutes)

5. MOTION: FREE SWIMMING

Proposed by Councillor Darren Dodd (7 minutes)

Seconded by Councillor Denise Roberts (3 minutes)

- (1) Council condemns the decision of the National Con/Dem alliance to withdraw free swimming for children and pensioners.
- (2) Council further notes with dismay that Wirral's Conservative / Liberal Democrat coalition has only guaranteed free swimming until September, despite the fact that free swimming both for children and for the elderly was agreed and paid for from within the Council's own budget before any government subsidies were introduced and that this Labour initiative was a trail blazer for other local authorities and for the government.
- (3) Council agrees that any move to axe free swimming would be a false economy and work in direct opposition to the Corporate Priority of increasing Health and Well Being for all, and act against the agreed drive to reduce childhood obesity, and to keep elderly people as fit as possible for as long as possible in order to improve their quality of life and reduce the need for any early care interventions.
- (4) Council notes that the Coalition as part of their agreement together have signed up to the Corporate Plan and the Corporate Priorities.
- (5) Council further notes that being able to swim is also a matter of safety for Wirral residents who live on a peninsula surrounded on three sides by water and demands that the administration guarantees free swimming on a permanent basis.

AMENDMENT

Proposed by Councillor David Elderton (7 minutes)

Seconded by Councillor Denis Knowles (3 minutes)

Delete all after '(1) Council' and replace with:

believes it is difficult for a local authority to provide free swimming if it has closed and demolished its swimming baths and leisure centres, as planned by the previous Labour-led administration.

AMENDMENT

Proposed by Councillor Bob Moon (7 minutes)

Seconded by Councillor Mark Johnston (3 minutes)

Delete paragraphs (1), (2) and (3) and insert new paragraphs (1) and (2)

- (1) Council congratulates the Cabinet for taking swift action to reassure the Wirral public that there would be no immediate end to free swimming following the

announcement that funding for free swimming was to be withdrawn by the Coalition Government.

- (2) Council recognises that in these difficult financial times, many spending decisions already agreed will need to be kept under review and that the Cabinet has commissioned a report on the costs and benefits of free swimming and how to safeguard access for the most vulnerable before reaching a conclusion on this matter.

Amend paragraph (4) and renumber as (3), delete “notes” and replace with “welcomes”.

Delete paragraph (5) and replace with final paragraph (4):

- (a) Council therefore also welcomes the fact that the Cabinet has called for a report on the effectiveness of spending against these priorities of projects and programmes funded by the Area Based Grant, rather than make the type of arbitrary cuts that would have been the hallmark of the Labour Party.

Right of reply: Councillor Darren Dodd (7 minutes)

6. MOTION: SCRAPPING OF COMPREHENSIVE AREA ASSESSMENT

Proposed by Councillor Simon Holbrook (7 minutes)

Seconded by Councillor Bob Moon (3 minutes)

- (1) This Council welcomes the announcement by the Communities Secretary and the letter from the Audit Commission to Chief Executives and LSPs that all work on Comprehensive Area Assessment is to be ceased by the Audit Commission with immediate effect.
- (2) Council believes that Comprehensive Area Assessment was a wasteful, over-bureaucratic and ineffective way of assessing councils’ and other public bodies’ effectiveness and placed an unacceptable burden on councils in servicing the process.
- (3) Council welcomes the fact that resources now freed up from the inspection regime can be used more flexibly to ensure frontline services are delivered in the most effective and efficient way for local people.
- (4) Therefore, Council requests the Director of Corporate Services to:
 - (a) Ensure that the Authority does not participate in any targeted inspections that the Audit Commission wishes to carry out in Wirral, unless a robust rationale that demonstrates value for money and improved service delivery from carrying out that inspection can be provided by the Audit Commission to the satisfaction of the Authority.

- (b) Review existing arrangements for policy and performance management across all council services and provide a report to Cabinet at the earliest opportunity on how capacity released by the ending of CAA might be harnessed more effectively.

Right of reply: Councillor Simon Holbrook (7 minutes)

7. MOTION: “GHETTOS OF UNEMPLOYMENT”

Proposed by Councillor Ann McLachlan (7 minutes)

Seconded by Councillor George Davies (3 minutes)

- (1) Council is outraged but not surprised by the comments made by Ian Duncan Smith where he suggests breaking up “ghettos of unemployment” and moving the unemployed instead into areas across the country where work is more freely available.
- (2) Council is outraged because the policies of this government will increase these “ghettos” by targeting the largest share of cuts on precisely those poorest areas where unemployment is highest.
- (3) Council believes that the Government is fully aware of the fact that where the public sector provides a high proportion of jobs, the public and private sector are co-dependent and any cuts in the public sector will have a direct knock on to the private sector, creating major job losses across a region like Merseyside with little chance of recovery.
- (4) Council is outraged but not surprised that the Tory solution is then to move the unemployed away from their home areas, and their own support networks, which often provide valuable assistance in child care, and mutual support when times are hard, making it even more difficult for them to hold down jobs in a new place, presumably in the overcrowded South East where there is already a major housing crisis. This is simply the old, familiar Norman Tebbit “Get on your bike” Tory philosophy.
- (5) Council roundly condemns this crazy, ill thought out and ugly policy which demonstrates just how far removed from reality the current millionaire, Eton based Cabinet ministers are.

AMENDMENT

Proposed by Councillor Andrew Hodson (7 minutes)

Seconded by Councillor Tony Pritchard (3 minutes)

Delete all after ‘(1) Council’ and replace with:

recognises the distress, anger and upset caused to people across Wirral, including some of the most deprived communities, by the failure of the previous Government

to tackle youth unemployment and the growth in number of people claiming Incapacity Benefit.

- (2) Council notes the difference in real gross value added per capita growth rates between the Greater South East and all other English regions widened towards the end of the last decade.
- (3) Council therefore welcomes the Coalition Government's determination that all parts of the UK benefit from sustainable economic growth, and that the private sector recovery is particularly strong in areas that are currently overly dependent on the public sector.
- (4) Council also welcomes measures in the Emergency Budget to promote job creation in Wirral and the wider Merseyside economy, including:
 - a reversal of the most damaging part of the planned increase in employer National Insurance Contributions.
 - the creation of a Regional Growth Fund to support increases in business employment and growth, and a scheme in which new businesses in targeted areas will get a substantial reduction in their employer National Insurance Contributions.
 - an increase in the Enterprise Finance Guarantee and the creation of a new Growth Capital Fund.
 - a reduction in the small profits rate to 20 per cent.
 - a planned reduction in the main rate of corporation tax from 28 per cent to 24 per cent.

AMENDMENT

Proposed by Councillor Phil Gilchrist (7 minutes)
Seconded by: Councillor Dave Mitchell (3 minutes)

In paragraph (1) delete "outraged but not surprised by the" and replace with "disappointed by the insensitive"

Delete rest of motion (paragraphs (2) to (5)) and replace with:

- (2) Council is disappointed because it does not reflect the policies and priorities of the Coalition Government and it brings back echoes of the Norman Tebbit "Get on your bike" philosophy, which it rejects as simplistic and insulting to those people out of work through no fault of their own. Council notes the announcement of the £1bn fund to promote private enterprise and support economic recovery in the regions hit hardest by public sector job losses.
- (3) Council also notes that, according to the Office for Budget Responsibility, the deficit reduction plans of the previous Labour Government would, if implemented, have resulted in an estimated 460,000 public sector job losses by 2014-15. Council notes this is only 30,000 less than that projected from the measures taken by the Coalition Government and condemns Labour for their failure to spell out the implications and impact of their own deficit reduction programme.

- (4) However, Council also recognises that the public sector in Wirral provides a bigger proportion of local employment than in other parts of the Country. Council requests that a report is presented to Cabinet on how local people who may lose their jobs may be supported.

Right of reply: Councillor Ann McLachlan (7 minutes)

8. MOTION: LAND AT OXTON ROAD / BALLS ROAD

Proposed by Councillor Stuart Kelly (7 minutes)

Seconded by Councillor Alan Brighouse (3 minutes)

Council requests the relevant Cabinet Members and officers to investigate the possible consolidation of waste land in the Oxton Road / Balls Road East area of Birkenhead, including the use of Compulsory Purchase Orders and then subsequent marketing for family housing development in the area and to report on progress to a future appropriate meeting.

AMENDMENT

Proposed by Councillor George Davies (7 minutes)

Seconded by Councillor Ann McLachlan (3 minutes)

Delete all and insert:

- (1) Council notes that Minute 169 of the Cabinet meeting of October 15th 2009 Area Appraisal and Strategic Acquisitions, Belmont, Birkenhead, has already set in motion the action requested in the Notice of Motion and that acquisition of the relevant properties is already well under way and should be completed within the next month or so, thereby rendering the current Notice of Motion unnecessary.
- (2) Council expresses its amazement that a member of the Cabinet which took that initial decision, and a councillor for the neighbouring ward, should be unaware of the progress already made under a Labour Cabinet Member for Housing, and can only conclude that either the item passed him by, or that he has raised it again for purely electoral purposes in order to claim credit for action already taken in a desperate attempt to bolster the Liberal Democrats' faltering chances in the next election, which he knows full well are already damaged by the coalition with the Conservatives nationally and locally.

Right of reply: Councillor Stuart Kelly (7 minutes)

9. MOTION: HUNG, SHOT OR GUILLOTINED?

Proposed by Councillor Brian Kenny (7 minutes)

Seconded by Councillor Adrian Jones (3 minutes)

This Council condemns the utter hypocrisy of the Conservative Liberal Democrat Alliance nationally and locally, which has initiated the most savage round of public sector cuts since the 1930s and then seeks ways of devolving the decisions on these cuts away from itself, both nationally and locally, either through a massive, tax payer funded, "consultation" exercise or by the new doctrine of "localism", devolving decision making down to a very local level, as far away as possible from the real decision takers.

Council believes that:

- (1) The people of Wirral and the employees of the Council are, in reality, being asked to decide whether they wish to be hung, shot or guillotined. Whichever choice they make, they will undoubtedly be blamed for their own death.
- (2) Devolving power under the new doctrine of localism will turn out to be the classic Tory scam, (camouflaged in warm words about local democracy and involvement), of passing the buck while cutting the money available to do anything useful.
- (3) The local consultation exercise, as currently mounted, will only serve to delay urgent decision making which, in turn, will mean cuts have to be even more savage as time runs out to have decisions taken and implemented by April 1st, leading to only part year savings or the use of balances which both leave a hole in the next year's budget, and also have to be replaced, doubling the impact.
- (4) Any form of meaningful consultation would mean producing carefully costed and detailed options for saving and budget setting and giving the public the opportunity to choose between those costed options. Anything less is simply a cover to shift blame onto the public for the decisions that are taken, and even that still leaves the public and staff implicated in taking decisions against their own interests.
- (5) The first victims of the Tory scam are the Liberal Democrats who have been lured into an alliance with promises of greater local involvement and democracy, only to find out that this cherished policy will go the way of the campaign against VAT increases, and prove to be just another cover for Tory ruthlessness which will hurt the poorest most, devastate the people of Wirral, and ultimately benefit the wealthy in the Tory heartlands of the South East, all in an ideological drive to reduce the size and influence of the State sector.

AMENDMENT

Proposed by Councillor Jeff Green (7 minutes)

Seconded by Councillor Ian Lewis (3 minutes)

Delete all after 'This Council' and replace with:

recognises the distress, anger and upset caused to people across Wirral, including some of the most deprived communities, by Council's failure to consult in previous years on key decisions affecting massive cuts to services under a Labour-led Council and a Labour Government.

Council is dismayed to note that the Labour Group still believes they know best and that people should not be given greater opportunity to develop Council services.

Council therefore resolves to:

- (1) Apologise for failing to consult in previous years.
- (2) Thank the campaigners, staff and users for their work at libraries and leisure centres.
- (3) Thank Sue Charteris and her staff for their conduct of the Public Inquiry.
- (4) Encourage citizens, third sector organisations, employers, faith groups and staff to engage with Wirral Council to help shape the future of Council services.

Right of reply: Councillor Brian Kenny (7 minutes)

10. OBJECTION: MINUTE 50 (CABINET – 24 JUNE, 2010) - REVIEWS OF LOCAL GOVERNANCE ARRANGEMENTS AND COMBATING ANTI-SOCIAL BEHAVIOUR

Moved by Councillor Steve Foulkes (7 minutes)

Seconded by Councillor Phil Davies (3 minutes)

This Council expresses deep concern about the Constitutional and democratic implications of Cabinet Minute 50 and believes that in setting up the first two Commissions the Cabinet has paid scant regard to the current Constitution of the Council.

Council notes that:

- The Commission is not a sub committee of Cabinet, as it comprises one member from each party.
- The Commission is not a sub committee of any Overview and Scrutiny Committee, although the subject matter clearly comes under a relevant Scrutiny Committee and could have been referred to Scrutiny for examination and a report back to Cabinet.
- There is no clear division between the Executive and Scrutiny Function.
- There is a potential for real confusion and overlap between the role of the Commission and the role of Scrutiny. For example, the Children and Young

People's Overview and Scrutiny already has a review of Sure Start and under 5's as part of its work programme.

- Three people, outside any normal accountability structure, will in fact be conducting a wide consultation and advising the Cabinet on issues of local governance which will have huge financial and constitutional consequences, with any subsequent Cabinet decisions likely to require major changes across the Council's Constitution.
- This is a clear vote of no confidence in the Scrutiny Chairs of all parties who would normally be expecting to carry out this kind of work.
- The consequence is there will be no clear structural audit or minute trail which sets out how the advice in the final report to Cabinet was reached.
- This could be seen as a preliminary move back to the old committee system preferred by the Conservatives, but not yet allowed for in law, disguised for the time being as a working party without decision making powers (but with considerable influence on the Executive.)

For all these reasons, Council refers Minute 50 back to the Cabinet for further detailed consideration.

Right of reply: Councillor Jeff Green (7 minutes)

COUNCIL VACANCIES

COUNCIL COMMITTEES

Licensing Act 2003 Committee

Councillor Sue Taylor's appointment as Chair, in accordance with the wishes of the Committee (minute 3 (25/5/10) refers) be ratified.

Councillor Alan Brighthouse to replace Councillor Pat Williams

OUTSIDE BODIES

HOUSING AND COMMUNITY SAFETY

Wirral Partnership Homes Board (2:2:1)

One Labour vacancy to replace Councillor Brian Kenny

REGENERATION AND PLANNING STRATEGY

Liverpool City Region Boards (3 vacancies)

- Environment and Waste Board
- Employment and Skills Board
- Housing and Spatial Planning Board

Mersey Maritime Group Ltd, (2 vacancies)

SOCIAL CARE AND INCLUSION

Wirral University Teaching Hospital Foundation Trust – Governors

Councillor J Green

Councillor C Meaden Appointments expire on 16 September, 2010

Councillor R Moon

Council is requested to re-nominate these three Councillors to serve for 3 years until 16 September, 2013 in accordance with the Foundation Trust's constitution.

Note:

Council will recall, at its annual meeting, appointing two Members to the **Egerton House Trust Board**. There is, however, only one position for a Board member and Councillor Stapleton has agreed to step down, with Councillor Elderton remaining.

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