

**MINUTES of the meeting of Council held at The Council Chamber
- The Shire Hall, St. Peter's Square, Hereford, HR1 2HX on Friday
25 May 2018 at 10.30 am**

Present: Councillor DB Wilcox (Chairman)
Councillor PJ Edwards (Vice Chairman)

Councillors: PA Andrews, BA Baker, JM Bartlett, WLS Bowen, TL Bowes, H Bramer, ACR Chappell, E Chowns, MJK Cooper, PE Crockett, PGH Cutter, BA Durkin, CA Gandy, DW Greenow, KS Guthrie, J Hardwick, DG Harlow, EPJ Harvey, EL Holton, JA Hyde, TM James, PC Jinman, AW Johnson, JF Johnson, JLV Kenyon, JG Lester, PP Marsh, RI Matthews, RL Mayo, MT McEvelly, SM Michael, PD Newman OBE, FM Norman, CA North, RJ Phillips, AJW Powers, PD Price, P Rone, A Seldon, NE Shaw, J Stone, D Summers, EJ Swinglehurst, A Warmington and SD Williams

Officers: Chris Baird, Annie Brookes, John Coleman, Geoff Hughes, Alistair Neill and Claire Ward

1. ELECTION OF CHAIRMAN

Councillor JG Lester proposed and Councillor TM James seconded the nomination of Councillor DB Wilcox.

(Councillor DB Wilcox declared a pecuniary interest and left the meeting for the vote)

RESOLVED: That Councillor DB Wilcox is elected Chairman of the Council for the forthcoming municipal year.

Councillor DB Wilcox made the statutory declaration of acceptance of office.

(Councillor DB Wilcox as the chairman)

2. APPOINTMENT OF VICE CHAIRMAN

Councillor A Seldon proposed and Councillor P Rone seconded the nomination of Councillor PJ Edwards.

RESOLVED: That Councillor PJ Edwards is appointed Vice Chairman of the Council for the forthcoming municipal year.

Councillor PJ Edwards made the statutory declaration of acceptance of office.

3. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors SP Anderson; CR Butler; MD Lloyd Hayes; AR Round; WL Skelton and LC Tawn.

4. **DECLARATIONS OF INTEREST**

Councillor JG Lester declared a pecuniary interest in agenda item no. 5, election of leader of the council, as a likely candidate for the role.

There was one further declaration made during the course of the meeting, see paragraph 9 below.

5. **MINUTES**

RESOLVED: That the minutes of the meeting held on 9 March 2018 be confirmed as a correct record and signed by the Chairman.

6. **CHAIRMAN AND CHIEF EXECUTIVE'S ANNOUNCEMENTS**

Council noted the chairman and chief executive's announcements as printed in the agenda papers.

The chairman paid tribute to former councillor June French who had passed away recently. The chairman commented on the number of royal visits to Herefordshire during the course of the previous year, the community champions awards and the success of the weeping window at Hereford cathedral. The chairman asked for thanks to be conveyed to those officers involved in arrangements to bring the weeping window exhibition to Hereford.

The chief executive provided an update which included detail of the positive feedback in the LGA peer review regarding the safeguarding service and explained the launch of a campaign to recruit more care workers. A recent award to a member of staff was announced and the arrival of the new assistant director for safeguarding.

In response to questions about the Robert Owen Academy and pupils currently at the school it was explained that a statement would be forthcoming shortly.

7. **ELECTION OF LEADER OF THE COUNCIL**

Councillor BA Baker proposed and Councillor AW Johnson seconded the nomination of Councillor JG Lester.

(Councillor JG Lester declared a pecuniary interest and left the meeting for the vote)

RESOLVED: That Councillor JG Lester is elected Leader of the Council for the forthcoming municipal year.

8. **APPOINTMENTS TO COUNCIL COMMITTEES AND OUTSIDE BODIES** (Pages 11 - 22)

Council considered the report attached to the agenda relating to appointments to committees of the council and outside bodies in line with the rules of political proportionality. Council was informed of the supplement published following the agenda with a corrected version of the report.

The solicitor to the council explained that any members who had been nominated for positions which attracted a special responsibility allowance under the councillors' allowances scheme had a pecuniary interest in that item. Following a written request she had granted a dispensation and therefore those members who were affected could participate in the discussion, remain in the room and vote on all of the recommendations in item 8. She advised, however, that members should refrain from voting in respect of recommendation (g) where they were nominated for an individual appointment.

Councillor JG Lester proposed and Councillor NE Shaw seconded recommendations a-e which were carried unanimously. Recommendation f was put to the vote and carried unanimously.

Council moved to recommendation g and the appointment of chairmen and vice chairmen to council committees.

The consideration of each appointment was as follows:

Chairman of the Adults and Wellbeing Scrutiny Committee

Councillor JA Hyde proposed and Councillor MT McEvilly seconded the nomination of Councillor PA Andrews.

There were no other nominations.

Councillor Andrews was appointed.

Vice Chairman of the Adults and Wellbeing Scrutiny Committee

Councillor EJ Swinglehurst proposed and Councillor TM James seconded the nomination of Councillor J Stone.

There were no other nominations.

Councillor Stone was appointed.

Chairman of the Audit and Governance Committee

Councillor JF Johnson proposed and Councillor JG Lester seconded the nomination of Councillor PD Newman OBE.

There were no other nominations.

Councillor Newman OBE was appointed.

Vice-Chairman of the Audit and Governance Committee

Councillor RI Matthews proposed and Councillor NE Shaw seconded the nomination of Councillor ACR Chappell.

There were no other nominations.

Councillor Chappell was appointed.

Chairman of the Children and Young People and Scrutiny Committee

Councillor NE Shaw proposed and Councillor JF Johnson seconded the nomination of Councillor CA Gandy.

There were no other nominations.

Councillor Gandy was appointed.

Vice-Chairman of the Children and Young People and Scrutiny Committee

Councillor JA Hyde proposed and Councillor D Summers seconded the nomination of Councillor FM Norman.

There were no other nominations.

Councillor Norman was appointed.

Chairman of the Employment Panel

Councillor NE Shaw proposed and Councillor JF Johnson seconded the nomination of Councillor AW Johnson.

There were no other nominations.

Councillor AW Johnson was appointed.

Vice-Chairman of the Employment Panel

Councillor DG Harlow proposed and Councillor JA Hyde seconded the nomination of Councillor RJ Phillips.

There were no other nominations

Councillor Phillips was appointed.

Chairman of the General Scrutiny Committee

Councillor JG Lester proposed and Councillor A Warmington seconded the nomination of Councillor WLS Bowen.

There were no other nominations

Councillor Bowen was appointed.

Vice-Chairman of the General Scrutiny Committee

Councillor P Rone proposed and Councillor KS Guthrie seconded the nomination of Councillor Baker.

There were no other nominations.

Councillor Baker was appointed.

Chairman of the Planning and Regulatory Committee

Councillor JG Lester proposed and Councillor H Bramer seconded the nomination of Councillor PGH Cutter.

There were no other nominations.

Councillor Cutter was appointed.

Vice-Chairman of the Planning and Regulatory Committee

Councillor RI Matthews proposed and Councillor EL Holton seconded the nomination of Councillor J Hardwick.

There were no other nominations.

Councillor Hardwick was appointed.

Chairman of the Licensing Sub-Committee

Councillor PGH Cutter proposed and Councillor NE Shaw seconded the nomination of Councillor DW Greenow.

There were no other nominations.

Councillor Greenow was appointed.

RESOLVED - that:

- (a) the list of ordinary committees listed at paragraph 7 is confirmed with their current terms of reference as set out in the council's constitution;**
- (b) the number of seats on each committee as set out at paragraph 8, and the allocation of those seats to political groups as set out at paragraph 9 is approved;**
- (c) the allocation of seats on outside bodies to political groups as set out at paragraph 10 is approved;**
- (d) it is noted that all other representation on outside bodies be decided by the chief executive, following consultation with the group leaders, in accordance with the provisions of the constitution;**
- (e) the Leader of the Council is delegated authority to annually appoint a chairman of the health and wellbeing board from those members of the executive appointed to the board, in accordance with the terms of reference agreed by Council;**
- (f) the suspension of the rules of proportionality in respect of the standards panel, the River Lugg Internal Drainage Board, and the Wye Valley AONB Joint Advisory Committee is approved; and**
- (g) the appointment of committee chairmen and vice chairmen of the committees as set out below is approved**

Committee	Position	
Adults and wellbeing scrutiny committee	Chairman	Councillor PA Andrews
	Vice-chairman	Councillor J Stone
Audit & governance committee	Chairman	Councillor PD Newman OBE
	Vice-chairman	Councillor ACR Chappell
Children and young people scrutiny	Chairman	Councillor CA Gandy

committee	Vice-chairman	Councillor FM Norman
Employment panel	Chairman	Councillor AW Johnson
	Vice-chairman	Councillor RJ Phillips
General scrutiny committee	Chairman	Councillor WLS Bowen
	Vice-chairman	Councillor BA Baker
Planning and regulatory committee	Chairman	Councillor PGH Cutter
	Vice-chairman	Councillor J Hardwick
Licensing sub-committee	Chairman	Councillor DW Greenow

9. 2018 CONSTITUTION REVIEW (Pages 23 - 28)

Council considered a report containing proposed changes to the constitution following the review undertaken by a member working group. Three proposed amendments were received prior to the meeting from the following members; Councillor NE Shaw, Councillor AJW Powers and Councillor EPJ Harvey. The proposed amendments were published as a supplement in advance of the meeting.

Councillor PD Newman OBE moved the report and explained that following the introduction of the current constitution in May 2017 a cross-party working group, of the audit and governance committee, had been established to undertake an overview of the constitution and make recommendations. The recommendations agreed by the working group were presented to the audit and governance committee in May 2018 and were approved in a split vote. Councillor J Stone seconded the report and its recommendations.

Council discussed the recommendations contained in the report and made the following points:

- The working group were thanked for their work on the constitution and it was positive that a change to the terms of reference of the scrutiny committees now included the ability to examine relevant budget and performance framework items;
- The new right of appeal for members against code of conduct judgements was welcomed; and
- There was concern that none of the proposed changes addressed issues of 'silo working', which had been identified as an issue in the recent peer review.

Amendment 1

Councillor NE Shaw introduced his amendment and informed Council of the addition of the word *upheld* to his amendment which had been omitted in error from the published supplement. The amendment proposed the naming of councillors, in the annual code of conduct report to the audit and governance committee, against whom complaints had been upheld. Councillor Shaw explained that code of conduct complaints were mostly raised against parish councillors and only a small proportion were upheld. The proposal would only affect a small number of councillors and ensured that the electorate were aware when their local members were found to be in breach of the code of conduct. It

was proposed that parish councils should be consulted on any change in future constitution reviews.

Councillor JG Lester seconded the amendment.

Council made the points below in the debate which followed:

- Support was expressed for the amendment which would assist the audit and governance committee to complete its annual review of complaints and allow for councillors to be held to account by the electorate.
- There was concern that publishing the names of councillors in an annual report may not serve the public interest if breaches of the code were not known at times of election; and
- The amendment sought to ensure that the Council was open and transparent.

The amendment was put to the vote and approved unanimously.

RESOLVED: That an amendment to section 3.5.14 (f) of the constitution is agreed as follows; *'To annually review overall figures and trends from code of conduct complaints which will include number of upheld complaints by reference to individual councillors within unitary, town and parish councils.'*

Amendment 2

Councillor AJW Powers introduced his amendment and explained that it added a clause to amendment 1 as carried by Council. The proposed amendment ensured that Council would be fully consistent with the Nolan principles and Herefordshire Council's core values including 'Openness'. The amendment would allow the electorate to know, after due process, when a breach of the code of conduct had occurred, the name of the councillor and the nature of the breach.

Councillor ACR Chappell seconded the amendment and explained that the amendment was intended to provide confidence to the electorate that councillors would be held to account effectively and the Council was open and transparent in its actions.

Council made the points below in the debate which followed:

- The use of the term 'promptly' in the amendment was questioned and whether this would pre-empt any appeal process;
- There was concern that if publication of the name and nature of the breach occurred before the conclusion of any appeal process this could unfairly malign councillors who successfully overturned a judgement on appeal. It was felt that the coverage of the initial breach would be extensive but any upheld appeal would only attract limited attention. There was a concern that this would deter parish councillors from serving as volunteers on local parish councils. A change to the proposed amendment was accepted by the proposer to ensure that disclosure of the name of the councillor and the nature of the breach would occur following the conclusion of any appeal process.
- The proposed amendment and the change relating to the conclusion of appeal processes was widely supported by members across the Council.

Councillor Jinman declared a non-pecuniary interest as chairman of Ewyas Harold Parish Council.

The debate continued as below:

- The proposed amendment and change were welcomed but it was suggested that the processes and procedures were still significantly behind those in other regulatory areas such as Parliament. It was hoped the next constitutional review would make further progress in realising improved regulatory process.

At least eight members of the Council requested a named vote.

The amendment was approved unanimously.

For (47): Councillors PA Andrews; BA Baker; JM Bartlett; WLS Bowen; TL Bowes; H Bramer; ACR Chappell; EE Chowns; MJK Copper; PE Crockett; PGH Cuter; BA Durkin; PJ Edwards; CA Gandy; DW Greenow; KS Guthrie; J Hardwick; DG Harlow; EPJ Harvey; EL Holton; JA Hyde; TM James; PC Jinman; AW Johnson; JF Johnson; JLV Kenyon; JG Lester; PP Marsh; RI Matthews; RL Mayo; MT McEvelly; SM Michael; PD Newman OBE; FM Norman; CA North; RJ Phillips; AJW Powers; PD Price; P Rone; A Seldon; NE Shaw; J Stone; D Summers; EJ Swinglehurst; A Warmington; DB Wilcox; and SD Williams.

RESOLVED: That an amendment to section 3.5.14 (f) of the constitution is agreed as follows; *‘To annually review overall figures and trends from code of conduct complaints which will include number of upheld complaints by reference to individual councillors within unitary, town and parish councils and when a code of conduct complaint has been upheld by the Monitoring Officer or by the Standards Panel, after the option of any appeal has been concluded, promptly to publish the name of the councillor, the council, the nature of the breach and any recommendation or sanction applied.’*

Amendment 3

Councillor EPJ Harvey introduced her amendment concerning a change to the code of conduct to require members to declare membership of closed or private organisations and societies. Officers were required to make such declarations therefore in the interests of consistency the code of conduct should obligate councillors to declare such memberships. The amendment would be consistent with the Nolan principles and elected members should accept that such declarations should be required. The proposal would have been in the recommendations put to council but had been narrowly lost in a split vote of the audit and governance committee.

Councillor Norman seconded the amendment and explained that the proposal was in the spirit of openness which had informed the previous two amendments approved at the meeting. It was important that there was consistency in required declarations between officers and councillors.

The points below were made in the debate that followed:

- There was already a requirement for councillors to declare interests where they impacted on decisions and actions in which members were involved. It was urged that Council wait until the parliamentary select committee currently looking into standards of public life reported its finding and then consider the issue again;
- It was explained that similar declarations were required in other sectors and it was not felt that there was any problem with councillors declaring memberships of closed or private organisations;
- The burden to volunteers of making such declarations of interests was raised and that this may act as a deterrent to people standing for public office;

- It was commented that potentially there were a number of organisations to which members belonged which would require declarations under this principle. The amendment would provide transparency and clarity to the public;
- Consistency between officers and councillors declarations of interest was imperative;

At least eight members of Council requested a named vote.

The amendment was approved 38 in favour 2 against and 7 abstentions.

For (38): Councillors PA Andrews; JM Bartlett; WLS Bowen; TL Bowes; ACR Chappell; EE Chowns; PE Crockett; BA Durkin; PJ Edwards; CA Gandy; DW Greenow; KS Guthrie; J Hardwick; DG Harlow; EPJ Harvey; EL Holton; JA Hyde; TM James; PC Jinman; JF Johnson; JLV Kenyon; JG Lester; PP Marsh; RI Matthews; RL Mayo; MT McEvelly; SM Michael; PD Newman OBE; FM Norman; CA North; RJ Phillips; AJW Powers; A Seldon; J Stone; D Summers; EJ Swinglehurst; A Warmington; and SD Williams.

Against (2): Councillors BA Baker; and AW Johnson.

Abstentions (7): Councillors H Bramer; MJK Cooper; PGH Cutter; PD Price; P Rone; NE Shaw; and DB Wilcox.

RESOLVED: that an amendment is agreed to replace the wording in section 5.2.14 of the constitution with the following: ‘Schedule 2 interests are *Membership of any body: a) exercising functions of a public nature; or b) directed to charitable purposes; or c) whose principle purposes include the influencing public opinion or policy (including any political party); or d) is not open to the public without formal membership. This does not include subscription or any body to which the member is appointed or nominated by the council.*’

Councillor PD Newman OBE proposed and Councillor JG Lester seconded the substantive recommendation which was put to the vote and approved.

RESOLVED; that:

- a) Subject to amendments 1 - 3 resolved above, the revised constitution at appendices 2-9 is adopted and implemented with immediate effect; and**
- b) Authority is delegated to the solicitor to the council to make technical amendments (grammatical, formatting and consistency) necessary to finalise the revised constitution for publication.**

The meeting ended at 12.33 pm

CHAIRMAN