

NOTICES OF MOTION

Report of the County Solicitor

Recommendation: that consideration be given to any recommendations to be made to the County Council in respect of the Notices of Motion set out hereunder having regard to the relevant factual briefing/background papers and any other representations made to the Cabinet.

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The Notices of Motion submitted to the County Council by the Councillors shown below have been referred to the Cabinet in accordance with Standing Order 8(2) - for consideration, reference to another committee or to make a recommendation back to the Council.

A factual 'Briefing Note/Position Statement' prepared by the relevant Head of Service is also included where appropriate or available, to facilitate the Cabinet's discussion of each Notice of Motion.

### **(a) EU LAW – Animal Sentience (Councillor Wright)**

*This Council is disappointed that the Government voted to omit an important clause in EU law relating to animal sentience, as part of the Withdrawal Bill.*

*This Council is encouraged by the Government's subsequent clarification on its position relating to sentience and its commitment to enshrining higher animal welfare standards into UK law.*

*However, this Council backs calls from the British Veterinary Association to commit to an appropriate timeframe to reinstate the vital obligation in EU law in Article 13, on the STATE being responsible for animal welfare, in addition to UK law, which states that only the KEEPER of the animal is responsible.*

### **Briefing Note/Position Statement from the Head of Devon, Somerset & Torbay Trading Standards Service**

EU Article 13 of Title II of the Lisbon Treaty sets out the EU protocol on animal sentience and importantly puts a duty on the state to have due regard for animal welfare in the development and implementation of policy. It states:

In formulating and implementing the Union's agriculture, fisheries, transport, internal market, research and technological development and space policies, the Union and the Member States shall, since animals are sentient beings, pay full regard to the welfare requirements of animals, while respecting the legislative or administrative provisions and customs of the Member States relating in particular to religious rites, cultural traditions and regional heritage.

Since Article 13 has its origins in a treaty rather than a regulation, it did not qualify to automatically transfer into UK law as part of the European Union (Withdrawal) Bill 2017-19). Under the United Kingdom's directly enacted Animal Welfare Acts, accountability for the treatment of an animal focuses on the animal keeper, but not on the state. Green MP, Caroline Lucas submitted an amendment clause which sought to transfer the EU Protocol on animal sentience into UK law, so that animals would continue to be recognised as sentient beings under domestic law and the State would continue to have an overall responsibility for their welfare.

However the proposed clause was rejected with an 18 majority for the Government, which prompted the British Veterinary Association to lead a call for an urgent need for clarity from

Government on how the provisions in Article 13 will be enshrined in UK law to ensure we do not fall short of the high standards we expect as a nation of animal lovers. This included a 1,200-signature letter from individual veterinary surgeons, veterinary nurses and veterinary students calling for the principle of Article 13 to be explicitly enshrined in UK legislation post-Brexit,

The Government has produced a written statement on the matter which maintains that although the proposed clause (Clause 30 of the European Union (Withdrawal) Bill 2017-19) was voted against this is not a vote against the idea that animals are sentient and feel pain. The government states that its policies are, and will continue to be, driven by the recognition of sentience and they will act 'energetically' to reduce the risk of harm to animals – farmed and in the wild. They believe Clause 30 was a 'faulty' amendment which would not have achieved its stated aims and claim that they will find the right legal vehicle to ensure a rigorous and comprehensive system of recognising sentience is embodied in future legislation. In their opinion, Article 13 has not delivered the progress required, its effect in practice is very unclear and it has failed to prevent practices across the EU which are cruel and painful to animals.

On 12 December 2017 the Secretary of State for Environment, Food and Rural Affairs published a draft Animal Welfare (Sentencing and Recognition of Sentience) Bill which reflects the principle of animal sentience in domestic law. This draft Bill also contains an obligation, directed towards government, to pay regard to the welfare needs of animals when formulating and implementing government policy.

#### **(b) Pension Fund and Fossil Fuel Companies (Councillor Hodgson)**

*'In line with its recently affirmed commitment to mitigating climate change, this Council will divest its pension funds away from fossil fuel companies and seek opportunities to invest in companies that support renewable energy. This is moving forward in line with other Local Authorities such as Southwark taking this important step'.*

#### **Briefing Note/Position Statement from the County Treasurer**

Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 sets out a range of functions that are not to be the responsibility of an Authority's Executive. These include functions relating to local government pensions. Under Part 3(b) of the Council's Constitution the Investment and Pension Fund Committee has the delegated power to discharge the duties of the Council as Administering Authority of the Pension Fund under Section 101 of the Local Government Act 1972.

#### **(c) Post Brexit Arrangements (membership of the European Single Market and Customs Union (Councillor Shaw)**

*This County Council respects the majority vote in the County to support leaving the European Union, but believes that the UK must secure post-Brexit arrangements which best support the economic and social wellbeing of Devon and the country as a whole. The Council therefore urges the Government to negotiate continued membership of the European Single Market and Customs Union, both of which bring considerable benefits to Devon.*

#### **Briefing Note/Position Statement from the Head of Economy and Skills**

See separate report under Cabinet Agenda Item 13

#### **(d) Council Budgets – Vulnerable, Young and Elderly Residents (Councillor Biederman)**

*Devon County Council was very disappointed to see there was no help, to this council in the autumn statement with regard to Children's Services & Social Care. Children's Services budgets are overspent here and in 75% councils across the country, with a £2 billion shortfall in council budgets. If we are to deliver safe and effective services for vulnerable children we need to be adequately funded. The situation is very similar with Social Care.*

*We write a cross party letter, to Devon MP's and the Minister signed by all group leaders expressing our concerns and urging Devon MP's and the Government to address this growing problem for our most vulnerable young and elderly residents.*

**Briefing Note/Position Statement from the County Treasurer (in liaison with the Chief Officer for Children's Services and the Chief Officer for Adult Care and Health)**

It was disappointing that the Autumn Statement did not recognize the considerable financial pressure placed on Local Government by the increasing demands of Children's Services and Adult Social Care Services. Recent research by the Local Government Association (LGA) has indicated that Councils are undertaking more than double the number of child protection investigations than they were a decade ago. Izzi Seccombe, the chair of the LGA's community wellbeing board, has expressed disappointment that the Chancellor found no additional money for adult social care in his budget and has warned that nationally adult social care could face an annual funding gap of £2.3 billions by 2020.

Sometimes pressures not recognized in the Autumn Statement are recognized in the announcement of the Local Government Provisional Settlement. The details of the Settlement are given in a report elsewhere on the agenda. The Settlement has been beneficial to this Council but it did not provide additional funding for Children's Services or Adult Social care as some were anticipating.

Over the years the Council has done much lobbying of both local MPs and Ministers to try to obtain a better funding deal for Devon. In the New Year Councillor James McInnes will be meeting with Local MPs to inform them of the pressures felt by Children's Services. Consistent, continual effort is required to raise awareness of these issues.

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This Report has no specific equality, environmental, legal or public health implications that will not be assessed and appropriate safeguards and/or actions taken or included within the detailed policies or practices or requirements in relation to the matters referred to herein.

JAN SHADBOLT

[Electoral Divisions: All]

Local Government Act 1972: List of Background Papers

Contact for Enquiries: K Strahan

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<u>Background Paper</u>	<u>Date</u>	<u>File Reference</u>
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Nil