

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) **State Pension Arrangements for Women (Councillor Connett)**

*"The Council calls upon the Government to make fair transitional state pension arrangements for all women born on or after 6th April 1951, who have unfairly borne the burden of the increase to the State Pension Age (SPA) with lack of appropriate notification.*

*Hundreds of thousands of women had significant pension changes imposed on them by the Pensions Acts of 1995 and 2011 with little/no/personal notification of the changes. Some women had only two years notice of a six-year increase to their state pension age.*

*Many women born in the 1950's are living in hardship. Retirement plans have been shattered with devastating consequences. Many of these women are already out of the labour market, caring for elderly relatives, providing childcare for grandchildren, or suffer discrimination in the workplace so struggle to find employment. Women born in this decade are suffering financially. These women have worked hard, raised families and paid their tax and national insurance with the expectation that they would be financially secure when reaching 60. It is not the pension age itself that is in dispute - it is widely accepted that women and men should retire at the same time. The issue is that the rise in the women's state pension age has been too rapid and has happened without sufficient notice being given to the women affected, leaving women with no time to make alternative arrangements.*

*The Council calls upon the Government to reconsider transitional arrangements for women born on or after 6th April 1951, so that women do not live in hardship due to pension changes they were not told about until it was too late to make alternative arrangements."*

### **Briefing Note/Position Statement from the Head of Services for Communities**

Detailed information about the relevant timetable for and impact of legislated increases in State Pension age to be phased in are shown at:  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/310231/spa-timetable.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/310231/spa-timetable.pdf).

A State Pension age calculator is provided on the Gov.uk website which also shows people when they will reach their State Pension age, under current legislation, based on their gender and date of birth.

The Pensions Act 2014 provides for a regular review of the State Pension age, at least once every five years. Any review will be based around the idea that people should be able to spend a certain proportion of their adult life drawing a State Pension. The first review must be completed by May 2017. As well as life expectancy, it will take into account a range of factors relevant to setting the pension age. After the review has reported, the Government may then choose to bring forward changes to the State Pension age. Any proposals to do so would, like now, have to go through Parliament before becoming law. Government is not planning to revise the existing timetables for the equalisation of State Pension age to 65 or the rise in the State Pension age to 66 or 67. However the timetable for the increase in the State Pension age from 67 to 68 could change as a result of a future review. Before any future changes could become law Parliament would need to approve the plans.

This is of course a national issue and therefore the responsibility of Government. Councils are not in a position to directly influence the impact of the Pension Changes nor are they able to take any direct action to ameliorate any difficulties that may be experienced by individuals, although it is entirely possible that there will be some individuals who will, in due course, seek additional support from local Councils' under local community welfare support schemes, benefits or council tax relief as a result of reduced incomes.

A number of Councils locally have expressed support for this campaign, particularly, in relation to the apparent lack of notice or understanding of the change and when they would become effective, calling upon Government to reconsider proposed arrangements so as to avoid undue hardship for individuals as a result of changes which they did not have sufficient time to plan for or secure alternative pension arrangements.

**(b) Term Time Leave and Fines for Parents (Councillor Greenslade)**

*"County Council expresses concern at the incidences of fines being levied on parents who take their children out of school during term time. Accordingly County Council requests the People's Scrutiny Committee to consider current guidelines used to decide whether a fine is appropriate. In the meanwhile no new fines should be levied until this review is completed!"*

**Briefing Note/Position Statement from the Head of Education & Learning**

Legislation for school attendance is contained in the Education Act 1996 supplemented by Education (Pupil Registration) (England) Regulations 1996; s446 of the Act states that only the Local Authority may institute proceedings for an offence under s444.

In 2013 the Regulations were amended. Previously, the Regulations allowed for schools to authorise up to 10 days for the purpose of an annual family holiday. However, national concern over the number of days lost for holidays resulted in the Regulations being amended and these now provide that requests for absence can only be authorised in exceptional circumstances by the headteacher of the child's school.

The position in Devon in 2012/13, before the change to legislation, was that 0.73% of all school sessions were lost to Holidays (0.61% to authorised and 0.12% to unauthorised holidays). Those absences equated to 107,427 days or 564.4 school years. In 2014/15 (most recent SFR data), 0.31% of all sessions were lost to holidays (0.13% to authorised holidays and 0.18% to unauthorised holidays); being 45,884 school days or 241.5 school years.

By way of further background, Members should be aware that:

- if a child had a two week term time holiday every year whilst of compulsory school age, in addition to the average number of days absent due to illness and medical appointments, that child would miss a year of compulsory schooling;
- at primary school, pupils who miss just 14 days of schooling between the age of 7 and 11 are 25% less likely to achieve level 5;

- it is difficult for teachers to teach a large class when children are absent for one or two weeks as a result of a term time holiday; as well as teaching the new material, the teacher has to ensure that the children who were absent have caught up on the missed work;
- there are 14 weeks of the year where schools are closed, giving ample opportunity for family holidays;
- “Quality family time” does not have to involve an expensive holiday abroad – this campaign is more about the parents desires rather than a child’s education; under the current legislation, headteachers still have the power to authorise requests for absence in term time – there is no blanket ban on term time holidays; and
- not prosecuting term-time holidays renders the Regulations entirely ineffective and leaves schools powerless to prevent such holidays being taken by parents: Headteachers may feel that they are not being supported by the LA if we refuse to prosecute for poor attendance.

While the current legislation does not define “regular” attendance the recent High Court decision has failed to provide further clarity on this issue. The case concerned a father, who having taken his daughter on an unauthorised holiday was prosecuted by Isle of Wight Council for failing to ensure that his daughter attended regularly during the period 13th April – 21st April (the period when the holiday was taken). In the Magistrates’ Court, the father argued that, despite the 14 unauthorised absences during the above period, his daughter had attended school regularly and at the time the case was heard, her attendance was 92.3% overall for the academic year which is below the nationally expected attendance rate of 94%. The Isle of Wight Council applied to appeal the decision to the High Court, inter alia, to seek clarity on what constituted regular attendance.

The High Court ruled that it was appropriate to take into account the wider context of the absence and upheld the Magistrates decision. The High Court did not rule on what constituted regular attendance and further, were not asked to comment on whether the Magistrates were right to conclude that 92.3% attendance was “regular”. The High Court ruling did however state that the fact of a term-time holiday alone did not automatically mean that attendance was not “regular” within the meaning of the Act.

The current position is that the Isle of Wight Council has applied to appeal to the Supreme Court. The Department for Education has applied to join as an interested party and leave to appeal has now been granted. Notification of the date of the appeal is awaited. The Government have also made it clear that they will be amending the law to eliminate any ambiguity in current legislation.

To conclude, the Council’s position is that until the law is clarified - either by the Supreme Court or by way of revised legislation - Officers will review each case on its merits and consider the child’s attendance record overall. The Council will continue to prosecute where there is significant absence whether or not term time holidays are taken. However, further the Council will issue parents with a “Service Warning” letter when they have taken an unauthorised term-time holiday and attendance is otherwise good, as an alternative to prosecution. This is in line with the way in which Trading Standards deal with offences which are not serious enough to prosecute, but such warnings will be recorded and taken into consideration in response to further absence by the same individual. By doing this it is possible to keep a record of parents who are regularly taking unauthorised holidays during term-time and would give better grounds for prosecution should it become necessary. This may also alleviate the position of schools feeling that they are not being supported by the County Council .

**(c) Planning Advice from Council Officers (Councillor Greenslade)**

*“County Council expresses the view that in giving planning advice DCC Officers should give priority to providing balanced advice rather than the advice being given to “facilitate development”.*

## **Briefing Note/Position Statement from the Head of Planning, Transportation & Environment**

When considering this matter, it is important to note the role of the County Council in terms of planning. The County Council is Highway Authority, Education Authority and County Planning Authority for Minerals and Waste. The County Council is not a Local Planning Authority, nor, since the revocation of the Structure Plan in 2013, a Strategic Planning Authority. As such, when providing input to Local Planning Authorities in relation to planning applications, the County Council does so as a consultee for its statutory functions. It is the role of the *Local Planning Authority* to take account of the evidence submitted with the application, the Development Plan and the consultation responses (which are often theme specific) and make a balanced decision on the application.

The National Planning Policy Framework (NPPF) of 2012 identified an evolution in the decision making process relating to planning applications, underlining the important role which planning has in facilitating development. At Paragraph 14, the NPPF specifically sets out the presumption in favour of sustainable development when an application is in accordance with the Development Plan. Furthermore, paragraph 17 sets out the need to '*proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs*'.

Paragraph 19 develops the ethos of the NPPF further when it states that '*The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system*'.

In summary therefore, in the context of County Council planning-related functions and national planning policy, it is appropriate for the Council to provide planning application consultation responses which aim to facilitate development identified in the Local Plan (i.e. deemed by an independent Inspector as appropriate) and potentially other sustainable development sites. In doing so, the Authority will continue to give full weight to the individual and cumulative impact of proposed development.

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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

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