

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) Plastic Free Coastlines (Councillor Biederman)**

*This Devon County Council supports Plastic Free Coastlines, committing to plastic free alternatives and supporting plastic free initiatives within Devon.*

*The Council commits to lead by example to remove single-use plastic items from its premises. Also it must encourage plastic free initiatives, promoting the campaign and supporting its events.*

*A representative of this council will become a member of the Plastic Free Coastlines Steering group'.*

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

It is estimated that up to 13 million tonnes of plastic leak into the global marine environment every year<sup>i</sup> either discarded deliberately or escaped from a waste management process. This has adverse implications for wildlife, the economy and human health.

Entanglement and suffocation are responsible for the death of over 1m sea birds and mammals annually<sup>ii</sup> but the unseen effects are equally concerning: The plastics break down and become microplastics which do not biodegrade and are attractive to zooplankton, which in turn are eaten by wildlife higher up the food chain until it arrives on our dinner table. The components used in plastics could harm human health.

The direct economic costs of marine litter to maritime industries, the cost of clean-up and on tourism in the UK are estimated at £103m per year<sup>iii</sup>.

The Government has taken action on plastic bags and microbeads (the latter being illegal in most cosmetics from June 2018), but these sources comprise just 2% of the problem. One third of marine plastic litter is attributable to single-use beverage packaging, which offers the greatest opportunity to take action<sup>iv</sup>.

It is important to consider that all plastic items, single-use or not, increase the demand for nurdles – these are tiny plastic granules shipped around the world as the raw product. Nurdles are responsible for 9% of marine plastics before the plastic has even been turned into something useful.

The mantra of Reduce, Reuse, Recycle is key to improving this situation. Society needs to: use alternative materials wherever possible to reduce demand for nurdles and minimise the plastic that could become litter; provide incentives to reuse the plastic items; and improve product design and collection systems so that plastics are easier to recycle.

DCC and our partners have already started taking action on reducing single-use plastic items. Two examples are: desktop-printer cartridges, which, through the switch to multi-function printing devices, have reduced in purchasing volume from over 9000 in 2009 to 500 in 2016 (almost 60% are from recycled sources); and the Devon Norse reusable cup that, through a 10p reduction on drink prices in return for reusing the cup, resulted in 10,000 fewer disposable cups being used for hot drinks in its first 6 months.

We also have the Recycle@Work scheme in most of our work locations, accessible to 90% of staff. The scheme collects various materials including plastic bottles or mixed plastic recycling depending on location. A new Corporate Waste Action plan was adopted by Cabinet in January 2017 to improve performance further.

More broadly, DCC has a role through its environmental partnerships in raising awareness of the issues surrounding marine plastics. Each year the Exe Estuary Partnership organises a spring and autumn Exe Clean-Up. The latest event attracted 111 volunteers who gathered almost 1700 pieces of litter. The North Devon Coastal Creatures Project has been running beach cleans on remote beaches, supporting beach care groups and engaging schools. Active groups that continue to arrange beach cleans have been established at Westward Ho!, Northam Burrows, Woolacombe and Croyde.v

#### **(b) National Funding Formula for Schools (Councillor Greenslade)**

*County Council expresses its considerable disappointment at the Government's recently announced proposals which notionally leave Devon Schoolchildren with a funding gap of £268 below the national average. Additionally considerable concern is also registered that Devon has not done well with the high needs block allocation compared to others which will increase pressure on budgets for SEN.*

*These concerns be communicated on an all party basis to the Government and all Devon MP's.*

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

As Members may be aware, the national funding formula is fast moving. There has been a delay in obtaining clarification from the Department for Education on some of the figures and this is still being resolved.

There is a funding consultation meeting this week and a full note will be provided at the end of the week, so Members have the most up to date information to consider both prior to and at the Cabinet meeting.

#### **(c) Ethical Care Council (Councillor Hodgson)**

*This Council commits to becoming an Ethical Care Council by commissioning homecare services which adhere to an Ethical Care Charter. This will establish a minimum baseline for the safety, quality and dignity of care by ensuring employment conditions which a) do not routinely short-change clients and b) ensure the recruitment and retention of a more stable workforce through more sustainable pay (based on a minimum –genuine- living wage), conditions and training levels. On that basis we will adopt and sign UNISON's Ethical Care Charter.*

**Briefing Note/Position Statement from the Head of Adult Commissioning and Health**

The Unison Care Charter, published in 2013, has three suggested stages of implementation to which, Councils are invited to adhere as they commit to becoming an 'Ethical Care Council'. Personal Care, delivered in an individual's own home, is commissioned via the Council's Living Well at Home (LWAH) contract. Features of this contract vehicle align with many of the aspirations of the Unison Ethical Care Charter.

In the week ending 17/10/2017, DCC commissioned 39,072 hours of personal care; of which 26,426 hours (68%) were commissioned through the LWAH contract. Accordingly, Members are advised it is our assessment that the compliance with the Unison Ethical Care Charter describe below is made against this 68% of the Council's commissioned Personal Care, rather than the 32% of activity which is commissioned under 'legacy SPOT contracting arrangements', where less-stringent contractual obligations are imposed on providers (other than complying with statutory employment practices).

| <b>STAGE 1</b>                                                                                                                                                                                          |                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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| <b>Charter Requirement</b>                                                                                                                                                                              | <b>Compliance</b>        | <b>Notes to Members</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| The starting point for commissioning of visits will be client need and not minutes or tasks. Workers will have the freedom to provide appropriate care and will be given time to talk to their clients. | <b>Broadly Compliant</b> | <ul style="list-style-type: none"> <li>- Whilst personal care is currently commissioned against 'time and task' it is our assessment that adequate time is commissioned to ensure that individuals receive care in a dignified and respectful manner.</li> <li>- There is a positive intention to move towards outcomes based commissioning over the coming 18 months; which will remove 'time and task' features of DCC commissioned homecare.</li> </ul>               |
| The time allocated to visits will match the needs of the clients. In general, 15-minute visits will not be used as they undermine the dignity of the clients.                                           | <b>Compliant</b>         | <ul style="list-style-type: none"> <li>- Time allocated visits match the needs of the individuals receiving personal care. 15-minute visits are not routinely commissioned by DCC.</li> <li>- Current commissioning data shows that circa 3% of the total personal care commissioning is for 15-minute visits; the need for these visits has been recently reviewed and all are reported to be appropriate in the context of both their duration and purpose.</li> </ul> |
| Homecare workers will be paid for their travel time, their travel costs and other necessary expenses such as mobile phones.                                                                             | <b>Broadly Compliant</b> | <ul style="list-style-type: none"> <li>- The LWAH contract requires homecare workers to be paid for their travel time and travel costs.</li> <li>- Incidental expenses incurred during a worker's employment are usually met by a homecare provider as accepted employment.</li> </ul>                                                                                                                                                                                   |
| Visits will be scheduled so that homecare workers are not forced to rush their time with clients or leave their clients early to get to                                                                 | <b>Compliant</b>         | <ul style="list-style-type: none"> <li>- There is an expectation within the LWAH contract that adequate travel time is scheduled between visits to ensure workers</li> </ul>                                                                                                                                                                                                                                                                                             |

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| the next one on time.                                                   |                  | are not rushed or forced to leave visits early to arrive at their next appointment on time.<br>- Poor planning of adequate travel time has been intrinsically linked to safeguarding concerns and have been a feature of service failure that has led to whole service safeguarding events involving domiciliary care providers |
| Those homecare workers who are eligible must be paid statutory sick pay | <b>Compliant</b> | There is an expectation within the LWAH contract that workers receive access to the statutory sick pay scheme where they are eligible to receive SSP for periods of absence from work due to ill health.                                                                                                                        |

**Assessment of stage 1 compliance:** Our commissioning of personal care is broadly compliant with stage 1 of the suggested implementation of the Ethical Care Charter. Changes in commissioning practice, notably a shift towards Outcomes Based Commissioning (OBC) will be required to ensure full compliance with stage 1 implementation requirements.

| <b>STAGE 2</b>                                                           |                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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| <b>Charter Requirement</b>                                               | <b>Compliance</b>    | <b>Notes to Members</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| Clients will be allocated the same homecare worker(s) wherever possible. | <b>Compliant</b>     | - Accepted practice in the provision of personal care to individuals in their own homes is that personal care is provided by the same worker / team of workers to ensure 'continuity of care'.<br>- Poor 'continuity of care' has been intrinsically linked to safeguarding concerns and have been a feature of service failure that has led to whole service safeguarding events involving domiciliary care providers.                                                                                                                       |
| Zero-hour contracts will not be used in place of permanent contracts.    | <b>Non-Compliant</b> | - The sector relies heavily on 'Zero hour' and 'minimum hour' employment contracts due to the constantly changing and dynamic nature of demand for personal care.<br>-A move away from these employment practices by providers would require a change in commissioning practices where the Council agrees to meet the cost for periods of a worker's employment where they are not delivering personal care to an individual in order to 'unsaddle' the provider organisation from the financial risks of incurring employment costs where no |

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|                                                                                                                                                        |                          | <p>income is being generated during periods of a worker's time that they are not delivering personal care.</p> <ul style="list-style-type: none"> <li>- A shift to outcomes based commissioning is likely to be required to effect such a change in employment practices, forcing a move away from commissioning 'time and task' personal care delivery.</li> <li>- Such a shift in commissioning practice may mitigate a risk of escalation of costs to commissioners due to the realisation of efficiencies within a 'less prescriptive' offer to individuals in need of personal care.</li> </ul>                                                                                                     |
| <p>Providers will have a clear and accountable procedure for following up staff concerns about their clients' wellbeing.</p>                           | <b>Compliant</b>         | <ul style="list-style-type: none"> <li>- Regulatory Standards, enforceable by the Care Quality Commission, require providers of personal care to implement effective systems which help to maintain the health and well-being of individuals in receipt of their services.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <p>All homecare workers will be regularly trained to the necessary standard to provide a good service (at no cost to themselves and in work time).</p> | <b>Broadly Compliant</b> | <ul style="list-style-type: none"> <li>- Regulatory Standards, enforceable by the Care Quality Commission, require providers of personal care to ensure workers have the necessary skills and experience to meet the needs of the individuals to whom they deliver personal care.</li> <li>- Poor training has been intrinsically linked to safeguarding concerns and have been a feature of service failure that has led to whole service safeguarding events involving domiciliary care providers.</li> <li>- Further assessment of whether training is provided in work time and without cost to the worker is required to make an assessment of compliance with this charter requirement.</li> </ul> |
| <p>Homecare workers will be given the opportunity to regularly meet co-workers to share best practice and limit their isolation.</p>                   | <b>Compliant</b>         | <ul style="list-style-type: none"> <li>- Regulatory Standards, enforceable by the Care Quality Commission, require providers of personal care to provide supervision and meetings which provide workers with forums to share best practice and limit isolation which is an inherent feature of the 'lone working environment' of personal care delivery in an individual's own home.</li> </ul>                                                                                                                                                                                                                                                                                                          |

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|  |  | - Poor supervision and support has been intrinsically linked to safeguarding concerns and have been a feature of service failure that has led to whole service safeguarding events involving domiciliary care providers. |
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**Assessment of stage 2 compliance:** Our commissioning of personal care is largely compliant with stage 2 of the suggested implementation of the Ethical Care Charter. Changes in commissioning practice, notably a shift towards Outcomes Based Commissioning (OBC) will be required to ensure providers of personal care are less likely to be saddled with the financial risk associated with fluctuation in demand for services will be required to ensure full compliance with stage 2 implementation requirements. It is thought that implementation of OBC commissioning models will drive efficiency within the personal care market, consequently there should not be an assumption that a change in commissioning practice will lead to an escalation in cost to the commissioning authority. Work is underway with our LWAH Primary Providers, linked to the NEW Devon STP Workforce workstream to explore the feasibility of an early shift in employment practices and provider reliance on 'zero hour' contracts, in favour of either 'minimum hour' or 'guaranteed hour' contracts; the commercial contracting arrangements between the Primary Providers and their sub-contracted providers may allow for a 'commercially focused' conversation in which guaranteed pay rates for homecare workers could become an accepted contractual requirement.

| <b>STAGE 3</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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| <b>Charter Requirement</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <b>Compliance</b>    | <b>Notes to Members</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| All homecare workers will be paid at least the Living Wage (as of November 2015 it is currently £8.25 an hour for the whole of the UK apart from London. For London it is £9.40 an hour. The Living Wage will be calculated again in November 2016 and in each subsequent November). If Council employed homecare workers paid above this rate are outsourced it should be on the basis that the provider is required, and is funded, to maintain these pay levels throughout the contract. | <b>Non-Compliant</b> | <ul style="list-style-type: none"> <li>- Implementation of the LWAH contract required workers to be paid NMW<sup>1</sup> Advice to the council during the procurement of the contract was that to require providers to meet NLW at rates higher than those set by the Low Pay Commission had the potential to be 'anti-competitive' within the sphere of 'public commissioning' and were accordingly discounted from contractual obligations.</li> <li>- There is discussion within Devon STP workforce workstream which is exploring whether the LWAH Primary Providers could make pay rates contractual requirements within the bounds of their commercial contracting with their sub-provider markets together with a decisive shift away from zero hour to either minimum hour or</li> </ul> |

<sup>1</sup>Current National Minimum Wage (NMW) and National Living Wage (NLW) for workers over the age of 25 set by the Low Pay Commission as at April 2017:

| Age of worker | NMW Under 18 | NMW 18-20 | NMW 21-24 | NLW 25 and over | Apprentice |
|---------------|--------------|-----------|-----------|-----------------|------------|
| Hourly Rate   | £4.05        | £5.60     | £7.05     | £7.50           | £3.50      |

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| <p>All homecare workers will be covered by an occupational sick pay scheme to ensure that staff do not feel pressurised to work when they are ill in order to protect the welfare of their vulnerable clients.</p> | <p><b>Non-Compliant</b></p> | <p>guaranteed hour employment contracts. Occupation sick pay schemes are not a feature of the private care sector; It is suggested that implementation of this charter requirement will require a shift in employment practice across the whole of the care sector rather than just within 'homecare'. Adoption of such employment practices would undoubtedly escalate costs of purchasing care as care providers would seek to mitigate the costs associated with between 2 – 4.5% absence in their organisations.</p> |
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**Assessment of stage 3 compliance:** Our commissioning of personal care is not compliant with stage 3 of the suggested implementation of the Ethical Care Charter. It is unlikely that this stage of the charter could be implemented without increased cost to the commissioning authority.

**(c) 20 MPH Speed Limits (Councillor Hodgson)**

*'With rising concerns about road safety for pedestrian and cyclists and in response to the growing calls for 20 mph speed limits in villages, this Council will welcome and consider proposals from Town and Parish Councils for 20 mph speed limits in residential areas, town and village centres and associated approach roads'.*

*(NB: The 20 mph zones in London are estimated to already be saving more than £20 million in crash prevention annually. The cost of road signs is remarkably low. For example, Portsmouth converted 1200 streets to 20mph for just over £500,000 – far cheaper than the alternative ideas put forward, which came to £2.2 million. It's roughly seven times more cost effective, in terms of speed reduction achieved, to introduce a 20 mph limit across a wide area, than to spend the same sum on isolated, physically calmed zones. The police are obliged to enforce all speed limits. The evidence is that drivers drop their speed when a 20 mph limit is enforced).*

**Briefing Note/Position Statement from the Chief Officer for Highways, Infrastructure Development and Waste**

The DfT have commissioned Atkins to carry out a study in to the effectiveness of 20mph speed limits, the recommendations are due to be issued in February 2018. This study will be the most comprehensive and robust study to date and will include detailed and accurate data on casualties and changes in speeds. A commitment has been given to review the County Council's speed policy when this study is published. In conjunction with the publication of this study the County Council is undertaking an evidence review of the introduction of 20mph limits in Devon and those built up areas which are not within a 20mph limit. This will further feed into the review of speed policy.

Currently speed related concerns identified by communities are considered collectively with the Police, looking objectively at data including measured speeds and collision information. The findings of the investigations inform proposed interventions which range from Community Speedwatch initiatives to engineering solutions. The funds available for interventions are limited and therefore have to be prioritised accordingly and targeted at those locations with most objective need. Officers will be working with members of the Corporate Infrastructure and Regulatory Scrutiny Committee over the coming months to look at how speed concerns are dealt with going forward.

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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>
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Nil

ⁱ Jambeck, J.R. *et al.* (2015) Plastic Waste Inputs from Land into the Ocean. *Science*. 347 (6223) p.768-771

ⁱⁱ Surfers Against Sewage (2014) *Marine Litter Report*. Surfers Against Sewage. Available at: <https://www.sas.org.uk/wp-content/uploads/SAS-Marine-Litter-Report-Med.pdf>

ⁱⁱⁱ Lee, J. (2014) Economic valuation of marine litter and microplastic pollution in the marine environment: An initial assessment of the case of the United Kingdom. Paper presented at the 2015 conference of the UK Network of Environmental Economists. Available at: <http://www.eftec.co.uk/keynotes/envecon-2015/lee-paper/download>

^{iv} Green Alliance (2017) *Marine Plastics* [online]. URL: http://www.green-alliance.org.uk/marine_plastics.php