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| <b>Report to:</b>           | Extraordinary Council                  | 20 November 2023 |
| <b>Lead Cabinet Member:</b> | Cllr Bridget Smith (Leader)            |                  |
| <b>Lead Officer:</b>        | Anne Ainsworth Chief Operating Officer |                  |

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## Best Value Notice

### Executive Summary

1. This report updates members on the Best Value Notice received from the Department for Levelling Up, Housing and Communities, on 3 November 2023 and the proposed response by the Council.

### Recommendations

2. To note the report and agree that the Council engage with DLUHC to provide the data requested.

### Reasons for Recommendations

3. To ensure all members are sighted on the Best Value notice and have an opportunity to comment on the proposed response by the Council.

### Details

4. On 3 November 2023 the Council received a Best Value notice from the Department for Levelling Up, Housing and Communities (DLUHC). The notice is attached at Appendix A. Alongside the notice, a letter was received from the Minister which is attached at Appendix B. This followed two previous letters received from Minister Lee Rowley, on 30 June and 5 September 2023, asking the Council to voluntarily stop the Four Day Week trial. These are referenced at Appendix C and E. The Leader of the Council responded to the Minister on 1 July 2023, attached at Appendix D, and the Chief Executive responded to the Department on 12 September 2023, attached as Appendix F.
5. DLUHC also issued non-statutory guidance on the four-day week to all councils on 26 October 2023, which is referenced at Appendix G.

6. It is understood that Minister Rowley also wrote to each individual member of the Council on 6 November, and this letter is referenced at Appendix H.

## **7. Best Value Notices**

8. The Best Value Duty relates to the statutory requirement for local authorities and other public bodies defined as best value authorities in Part 1 of the Local Government Act 1999 (“the 1999 Act”) to “make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness”. The Council is a Best Value local authority.

9. Best Value authorities must demonstrate good governance, including a positive organisational culture, across all their functions and effective risk management.

10. Appendix K sets out the Best Value notices issued this year by the Government.

## **11. The Best Value Notice received by the Council**

12. The Council received a Best Value Notice dated 3 November 2023 from Max Soule, who is a civil servant in The Department of Levelling Up Housing and Communities (‘DLUHC’). The notice describes itself as *“issued outside the statutory powers.... under the Local Government Act 1999 to inspect or intervene in Local Authorities where there is evidence of Best Value failure and ..... under Section 230 of the Local Government Act 1972”*.

13. In other words, no legislation has been relied upon to issue this notice; it is simply a request for data.

14. Neither the Local Government Act 1999 nor the Local Government Act 1972 refer to a “best value notice”. DLUHC Guidance (July 2023) refers to “early engagement”, about which the Guidance says (para35):

*“The purpose of this form of early engagement is to prevent any challenges experienced by the local authority from escalating by seeing how the authority is engaging with, or plans to engage with, sector support and identifying what form of additional support (if any) is needed. Local authorities demonstrating early indications of failure may also be invited to discuss their arrangements for securing continuous improvement with the minister responsible for local government. Where sufficient assurance is not provided, the department may write formally to obtain assurance that the authority is taking steps to manage its challenges. This may include the formal issuance of a Best Value Notice, the models for which are set out below.”*

15. A “non-statutory Best Value Notice” referred to in the 3 November 2023 Best Value Notice, is a civil servant writing to express concerns. While the Guidance states that the Best Value Notice “will normally remain in place for 12 months” and can be “withdrawn or escalated at any point on the available evidence”, the notice received by the Council states that it will remain in place for six months, ‘to

cover the remainder of the trial and allow for further data analysis'. The notice could then be reissued, should the Department deem it necessary.

## **16. Data requested by DLUHC**

17. The data request from DLUHC was received on 8 November, although the clock only started ticking on the requirement to make returns when the data request was posted on the DLUHC portal.
18. The request is in two parts. The first part is weekly returns on staffing, costs, service delivery, performance against a range of SCDC's Key Performance Indicators and resident feedback. The second part is retrospective data on staff, costs, service delivery and performance against a range of SCDC's Key Performance Indicators from 2018/19 to 2022/23, as well as: qualitative data about the cost of the trial; improvements outside of the trial; Annual Governance Statements; HR policies that have been implemented to address recruitment; retention and wellbeing challenges outside of the trial; and our Flexible working policy. The second part needs to be completed by 8 December. The data requests are referenced at Appendix I and J.
19. Initially officers have worked to address the weekly data request. Some of the data sets are routinely collected and assessed monthly (for example as KPIs or as Business Performance Indicators). The impact of extracting and reporting this data weekly depends on the systems being used and whether further manual checking or analysis is required. For example, weekly planning data can typically be extracted more readily than finance data; accounting systems are configured for monthly reporting. Some of the data requested is provided for us by contractors (for example Mears) and the feasibility and cost of doing so on a weekly basis is being assessed. Some data does not exist (for example business rates are not due weekly) and we are also seeking clarification of some of the request which appears onerous (logs of every email to the council, including response time and outcome). We are seeking clarification of the request, where relevant suggesting more meaningful monthly returns, and will record the resources used to fulfil these. A further update will be provided at the meeting.

## **Options**

1. To note the report and agree that the Council engage with DLUHC to provide the data requested. This is the recommended option.
2. The Council could refuse to respond to the data request.
3. The Council could request the Best Value Notice to be withdrawn on the proviso that the Four Day Week trial is stopped before March 2024, noting that time would be required to bring the trial to an end. There is no guarantee that DLUHC would agree to this request.

## **Implications**

20. In the writing of this report, taking into account financial, legal, staffing, risk, equality and diversity, climate change, and any other key issues, the following implications have been considered:-

### **Financial**

21. There will inevitably be a cost to supplying the data and this is yet to be quantified.

### **Legal**

22. This is a non-statutory notice; there are no specific legal implications.

### **Staffing**

23. There will inevitably be additional demands on some colleagues to collate and provide data; which may have an impact on productivity and costs still to be quantified.

### **Risks/Opportunities**

24. The Four Day Week Trial is on the Corporate Risk Register. In the short time that there has been to prepare this report, a full analysis of the risks created by the Best Value Notice has not been undertaken. However, the Best Value Notice states that “a failure to demonstrate continuous improvement may be judged to contribute to Best Value failure and the Secretary of State will consider using these powers as appropriate” (See Appendix A).

### **Equality and Diversity**

25. Equality and Diversity data has been requested as part of the data returns.

## **Alignment with Council Priority Areas**

### **A modern and caring Council**

26. The Council is expected to respond to a request for data from DLUCH and this is the proposed course of action.

## **Appendices**

Appendix A: Best Value Letter received on 3 November 2023

Appendix B: Minister Lee Rowley's letter of 3 November 2023

Appendix C: Minister Lee Rowley's letter of 30 June 2023

Appendix D: Leader of the Council 1 July letter

Appendix E: Minister Lee Rowley's letter of 5 September 2023

Appendix F: Chief Executive's letter of 12 September 2023 to the Department

Appendix G: Minister Lee Rowley's letter to all councils with non-statutory guidance

Appendix H: Letter from Minister Lee Rowley to Councillors

Appendix I: Weekly data request

Appendix J: Retrospective data request

Appendix K: Best Value notices issued this year.

## **Report Author:**

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