

Corporate Director, Resources

Request for Dispensation Under Section 85(1) of the Local Government Act 1972



Report of Corporate Management Team

John Hewitt, Corporate Director, Resources

Helen Lynch, Head of Legal and Democratic Services

Electoral division(s) affected:

All

Purpose of the Report

- 1 To seek urgent approval to grant a dispensation to Members who are unable to attend any Council meetings during the Covid-19 pandemic.

Executive summary

- 2 Section 85 of the Local Government Act 1972 states that where a Member fails throughout a period of six consecutive months from the date of their last attendance to attend any meeting of the authority, then, subject to certain exceptions, he/she ceases to become a Member of the authority unless the failure was due to some reason approved before the expiry of that period. Due to the factors listed in the report a generic dispensation is required to cover any member who would not be able to attend a meeting.

Recommendation

- 3 In the circumstances, it is recommended to approve that an automatic dispensation under section 85(1) of the Local Government Act 1972 is given to all councillors up to and including 31 December 2020.

Background

- 4 Section 85(1) of the Local Government Act 1972 provides that:

“....If a member of a local authority fails throughout a period of six consecutive months from the date of his last attendance to attend any meeting of the authority, he shall, unless the failure was due to some reason approved by the authority before the expiry of that period, cease to be a member of the authority”.
- 5 During the Covid-19 pandemic there was a period between 19 March and 5 June 2020 where there were no formal meetings of the Council. The Council is now able to convene remote meetings, with the first meeting being held on 5 June 2020. However, it will not be possible to convene all meetings of Council to enable all Members to attend one within the 6 month period. Priority is being given to meetings to consider matters, which need to be determined and some scrutiny meetings.
- 6 Consequently, the opportunity to attend a remote meeting is more restrictive as it is dependent on which committees are being held over the coming months, whether a councillor has the right equipment to take part (equipment is being provided to maximise the ability of members to participate), and the increased risk during the pandemic that councillors may be unwell therefore unable to attend. Unless a dispensation is granted a number would cease to be a member of the authority. At the time of writing this report, there are 4 Councillors who may face disqualification if they are unable to attend a meeting of the Council by end of July 2020.
- 7 The decision-making authority for granting a dispensation of this nature rests with full council. The Council’s Monitoring Officer has considered the issues and considers that it would be appropriate for Members to be provided with a dispensation where they have been unable to attend meetings as a result of the Covid-19 pandemic. Due to the uncertainty as to when the next meeting of full Council is to be convened, it is appropriate for the Corporate Director Resources to grant the dispensation in accordance with the urgent decision-making provisions within the Constitution. The decision will be reported to the next meeting of the Council in due course.

Conclusion

- 8 Unless a dispensation is granted there will be a number of councillors who would cease to be a member.

Background papers

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Appendix 1: Implications

Legal Implications

The requirements of section 85 of the Local Government Act 1972 are set out in the report.

Part 3, Table 1, paragraph 12 of the Constitution provides that where it is impracticable to obtain authorisation from the Council body with responsibility for the function, Chief Officers can take urgent action within legal powers where this is necessary in the interests of the Council subject to the action being reported to the next convenient meeting of that body.

Finance

Failure to agree the dispensation for councillors would result in a number of vacancies on the Council if they did not attend a qualifying meeting which would lead to a by-election being called. The Council would incur costs in respect of administering the by-election.

Consultation

None.

Equality and Diversity / Public Sector Equality Duty

The Council should have regard to a Members medical circumstances, and opportunity to take part in a remote meeting.

Climate Change

None.

Human Rights

None.

Crime and Disorder

None.

Staffing

None.

Accommodation

None.

Risk

None.

Procurement

None