

County Council

26 January 2022

Request for Dispensation Under

Section 85 (1) of the Local Government Act 1972



Report of Corporate Management Team

Paul Darby, Corporate Director, Resources

Electoral division(s) affected:

All

Purpose of the Report

- 1 To seek approval to grant a dispensation to Members who are unable to attend any Council meetings for absences that are covid related.

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 dispensation is required to cover any member who would not be able to attend a meeting if absences are covid-related.

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 2022 if absences are covid-related.

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 It is a member’s personal responsibility to ensure they comply with the requirements as set out in section 85 of the Local Government Act 1972. Members must be aware that if they fail 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.
- 6 Committee Services record members attendances at the formal meetings of the council, and assist where possible to flag with group leaders if a member in their group has not attended a meeting for some time. The responsibility lies however with the individual member to ensure they meet these requirements rather than relying on the matter being raised with their group leader. Members individual attendance records are available to be shared with the relevant group leader should it be requested.
- 7 As the Covid-19 pandemic continues with increased measures once again in place following the surge in the Omicron variant, the ability of councillors to attend the formal committees of the Council in person due to ill health or through self-isolation limits the number of meetings that a councillor may attend. It should be noted that holding the meetings of the local authority remotely is not an option, as the regulations which came into force on 4 April 2020 that had provided for these meetings to be held remotely during the pandemic were not extended beyond 7 May 2021.
- 8 In these circumstances it is proposed to grant a dispensation for absences that are covid related. It is understood that other authorities are considering a similar approach as part of a range of measures in response to the pandemic.
- 9 The decision-making authority for granting a dispensation of this nature rests with full council.

Conclusion

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

Background papers

- Local Government Act 1972
- Council Constitution

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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.

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 committee meeting in person.

Climate Change

None.

Human Rights

None.

Crime and Disorder

None.

Staffing

None.

Accommodation

None.

Risk

None.

Procurement

None