

County Council

22 February 2023

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



Report of Corporate Management Team

Helen Lynch, Head of Legal and Democratic Services

Electoral division(s) affected:

Deerness.

Purpose of the Report

- 1 To request Council to approve a dispensation for a Member who is currently unable to attend any Council meetings due to ill-health.

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. A request for dispensation has been received which is recommended for approval.

Recommendation

- 3 In the circumstances, it is recommended that Council approves the request for dispensation under section 85(1) of the Local Government Act 1972.

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 Due to a period of ill-health Councillor J Chaplow has been unable to attend any meetings since 29 September 2022. The expiry of the six-month period in this case would be 28 March 2023. Councillor Chaplow has submitted a request outlining the reasons for her non-attendance and asked that the Council approve her request for a dispensation whilst she recovers.
- 6 The authority for granting a dispensation of this nature rests with full council.
- 7 The Monitoring Officer is aware of the reasons for Councillor Chaplow’s absence and considers it appropriate for Council to grant the dispensation.

Conclusion

- 8 Unless the Council agrees the recommendation, Councillor Chaplow will cease to be a member of the Council on 28 March 2023.

Background papers

- Cllr Chaplow’s Request for Dispensation

Contact: Helen Lynch

Tel: 03000 269 729

Appendix 1: Implications

Legal Implications

A Councillor who fails to attend any meeting of the authority for six months ceases to be a Member unless a dispensation has been granted by the Authority concerned. The dispensation must be agreed before the expiry of the six-month period.

Finance

Failure to agree the dispensation for Councillor Chaplow would result in a vacancy on the Council. If Council Chaplow did not attend a qualifying meeting by 28 March 2023 this 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.

Human Rights

None.

Crime and Disorder

None.

Staffing

None.

Accommodation

None.

Risk

In the event that Councillor Chaplow is unable to represent her constituents communication should be maintained with Councillors D Nicholls and M Wilson, the other Electoral Division Members for Deerness.

Procurement

None.