



## Report to Council

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**Report of:** Monitoring Officer

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**Date:** 12 August 2020

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**Subject:** Waiver of 6 Month Councillor Attendance Rule (Sec. 85 of the Local Government Act 1972)

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**Author of Report:** David Hollis (Assistant Director Legal and Governance)  
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### Summary:

Section 85 (1) of the Local Government Act 1972 requires a Member of a Local Authority to attend at least one meeting of that Authority within a six month consecutive period, in order to avoid being disqualified as a Councillor. This requirement can be waived and the time limit extended if such a request is approved by Council in advance of the six month period expiring. The Covid-19 pandemic led to the cancellation of a number of Council meetings and it is possible that Councillors who last attended the last meeting of Full Council on the 4<sup>th</sup> March 2020 but cannot attend the meeting today may need an extension of the six months if it is not to expire before Full Council next meets.

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**Recommendations:** Council is recommended to:-

1. Consider any request to extend a councillor's period of office beyond the six month period of non-attendance provided for within Section 85 (1) of the Local Government Act 1972 on the grounds stated in the request; and
2. Approve the requested extension of time to expire on the day after the date set for the next meeting of Full Council (or any other extension requested).

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**Background Papers:** None

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**Category of Report:** OPEN

## Statutory and Council Policy Checklist

<b>Financial &amp; Commercial implications</b>
NO
<b>Legal implications</b>
YES – Cleared by David Hollis
<b>Equality of Opportunity implications</b>
Yes
<b>Tackling Health Inequalities implications</b>
N/A
<b>Human rights implications</b>
N/A
<b>Environmental and Sustainability implications</b>
N/A
<b>Economic impact</b>
N/A
<b>Community safety implications</b>
N/A
<b>Human resources implications</b>
N/A
<b>Property implications</b>
N/A
<b>Area(s) affected</b>
None
<b>Relevant Scrutiny Committee if decision called in</b>
N/A
<b>Is the item a matter which is reserved for approval by the City Council?</b>
YES
<b>Press release</b>
NO

**1. Background**

- 1.1 The six-month councillor attendance rule arises from s.85(1) Local Government Act 1972, which states that if a councillor fails to attend any meeting for a period of six consecutive months (starting from the date of their last attendance), they shall cease to be a member of the local authority unless a waiver to this rule has been approved by the local authority before the expiry of this period. S.85(2) goes on to state that attendance includes the councillor's attendance as a member at any committee or sub-committee meeting of the local authority, or at a meeting of any joint-committee, joint board or other board through which the functions of the local authority are being discharged.
- 1.2 There has to be a 'failure' to attend for the provision to be triggered. If there are no meetings in a six month period that a councillor could attend then the provision does not apply. However, this particular issue arises as upon a failure of a councillor to attend a meeting, the start of the six month period is backdated to when they last attended a meeting.
- 1.3 The cancellation of meetings due to the Covid-19 pandemic has meant the number of potential meetings a councillor can attend has been reduced and has meant that if a meeting has been missed, even for good reason, the backdating might mean they last attended a meeting some time ago and there is a greater risk that they will be further along the six month period.
- 1.4 As an extension can be only granted by Full Council, this meeting is the only opportunity to grant a waiver before the next meeting of Full Council. There will be no issue for councillors in attendance today but for any councillor who;
- a) cannot attend Full Council today; and
  - b) whose last attendance was more than six months before the date set for the next Full Council meeting,
- then Council should consider if granting a waiver.
- 1.5 This will include any councillor who attended the last meeting of Full Council on 4<sup>th</sup> March 2020 but has not attended a meeting since, if the date set for the next meeting is after 3<sup>rd</sup> September 2020.
- 1.6 It should also be noted that if no waiver is granted today then a councillor who falls within a) and b) in paragraph 1.4 above would not be disqualified if subsequently they attend a meeting before the end of the six month period from their last attendance.

1.7 At the time of writing this report, it is not known which councillors may not be in attendance and if so whether the date of the last meeting they attended means they need a waiver. Therefore details of waiver requirements, if any, will be provided on the day.

## 2. **Legal Implications**

2.1 The main legal implications are covered in the body of the report.

## 3. **Financial & Commercial Implications**

3.1 There are no direct financial implications directly associated with this report. If a councillor was disqualified then there would be costs associated with any future election to cover a vacancy.

## 4. **Equality of Opportunity Implications**

4.1 The Council has a duty under the Equality Act 2010 to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

4.2 Individual councillor circumstances may raise specific issues under equalities legislation and where that is the case will be highlighted at the meeting.

## 5. **Recommendations**

5.1 Council is recommended to:

1. Consider any request to extend a councillor's period of office beyond the six month period of non-attendance provided for within Section 85 (1) of the Local Government Act 1972 on the grounds stated in the request; and

2. Approve the requested extension of time to expire on the day after the date set for the next meeting of Full Council (or any other extension requested).

## 6. **Alternative Options**

6.1 The only option is not to grant the extension requested.

**Gillian Duckworth (Director of Legal & Governance)  
Monitoring Officer**