



COUNCIL

20 JULY 2020

REPORT TITLE:	SIX MONTH ATTENDANCE RULE S85 (1) OF THE LOCAL GOVERNMENT ACT 1972
REPORT OF:	THE DIRECTOR OF LAW AND GOVERNANCE

REPORT 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, unless permission for the absence is granted by the Authority in advance, in order to avoid being disqualified as a Councillor. Without advance permission to be absent, loss of office is automatic and permission cannot be granted retrospectively.

The Coronavirus emergency has resulted in the cancellation of a number of committees and meetings and, without prior permission to be absent, several Members will shortly fall foul of this six month rule.

The report discusses that, due to social distancing and other safeguards, Members will be able to attend meetings remotely for so long as the Regulations under the Coronavirus Act 2020 allow, but that the nature of these meetings and other issues concerning Coronavirus emergency introduces some concerns.

Accordingly, as a safeguard, this report proposes that all Members are given permission to be absent from Council meetings for the period of the emergency.

RECOMMENDATION/S

It is recommended that:

The absence of any Members from all Council and Committee Meetings be authorised and approved for the period that the provisions of the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 are in force or until the Annual Meeting of Council 2021, whichever is the sooner, pursuant to Section 85 of the Local Government Act 1972

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 The Coronavirus emergency has resulted in the cancellation of a number committees and meetings and, without prior permission to be absent, several Members will fall foul of this six month rule on 2nd September 2020. Whilst Regulations made under the Coronavirus Act 2020 have temporarily allowed for meetings to take place remotely, this does not suit all situations and there is a danger of technological and practical failure of meetings. Accordingly, as a safeguard, this report proposes that all Members are given permission to be absent from Council meetings for the period that the relevant provisions of the Coronavirus Act 2020 are in force

2.0 OTHER OPTIONS CONSIDERED

- 2.1 The proposal in this report is made to avoid Members being disqualified from office for non-attendance during the Coronavirus Pandemic and, therefore, no other option has been considered. Agreeing to the waiver over a different time period than that recommended and discussed in paragraph 3.5 below is an option that Members may wish to consider.

3.0 BACKGROUND INFORMATION

- 3.1 Section 85(1) of the Local Government Act 1972 ('Vacation of office by failure to attend meetings') requires that, if a member of a local authority fails to attend any meeting of the authority throughout a period of six consecutive months from the date of their last attendance at a meeting, they 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.
- 3.2 Attendance in an official capacity at a relevant meeting of the Council is defined as attendance at Cabinet, a Committee or a Sub-Committee of the Council or at any meeting of a joint Committee or other such body discharging functions of the Council or at any meeting as a representative of the Council is deemed to be a meeting of the Council.
- 3.3 The Government has issued directives in response to the Covid-19 pandemic. One such directive relates to social distancing and this makes it extremely difficult to hold Council and Committee meetings in the normal manner Members are used to. Since the beginning of the Coronavirus emergency, Council and Committee meetings have for the most part been cancelled. All Members of the Council attended the Council meeting of 2nd March 2020. Few Members, therefore, will have been able to have met the six month rule before the Annual Meeting scheduled for the 28th September 2020.
- 3.4 The Government has recognised the situation this places local authorities in and, as part of the Coronavirus Act 2020, Section 78 conferred powers for the Secretary of State for Housing, Communities and Local Government to make appropriate Regulations. Accordingly, the Secretary of State has made the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020. Under these

Regulations, 'attendance' now includes remote attendance at a meeting, but only for a time-limited period.

3.5 Some meetings deemed necessary for the administration of the Council's business have been held in a remote manner, including this one. For the safety of the public, Members and officers, as meetings increasingly take place again it is intended that meetings will all be held in this manner, and that that will continue to be the case for so long as the Coronavirus emergency and the accompanying legislative provisions are in place. This will, by its nature, perhaps exclude some Members from attending meetings that they might otherwise have attended.

3.6 Whilst meetings will be held more regularly throughout the remainder of the municipal year, remotely or otherwise, it should also be recognised that several Members may be required to self-isolate, some for long periods, due to illness. Equally, some Members may be unable to attend remote meetings for technological reasons. It is therefore proposed that dispensations be granted for all Members until after the elections in 2021 when the provisions concerning remote meetings contained in the 2020 Regulations come to an end.

4.0 FINANCIAL IMPLICATIONS

4.1 There are no significant financial implications arising from this report.

5.0 LEGAL IMPLICATIONS

5.1 If the recommendation set out in this report is not approved some Members may become disqualified. Approval of continuing absence is allowed under Section 85 (1) of the Local Government Act 1972.

6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

6.1 There are no resource implications arising from this report.

7.0 RELEVANT RISKS

7.1 If the Council does not approve the recommendation set out in this report some Members may become automatically disqualified. This will mean that some electors will be under-represented as there cannot be any by elections before May 2021.

8.0 ENGAGEMENT/CONSULTATION

8.1 The Political Group Leaders have been consulted on the proposal to approve a period of absence from meetings by Councillors pursuant to section 85 of the Local Government Act 1972.

9.0 EQUALITY IMPLICATIONS

9.1 Any Equality Implications are addressed in section 1.1 of the report and the recommendation.

10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

10.1 There are no environment and climate change implications arising from this report.

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APPENDICES

None

BACKGROUND PAPERS

Coronavirus Act 2020

[The Local Authorities and Police and Crime Panels \(Coronavirus\) \(Flexibility of Local Authority and Police and Crime Panel Meetings\) \(England and Wales\) Regulations 2020](#)

Lawyers in Local Government and the Association of Democratic Services Officers (ADSO):
Remote Meetings Regulations

SUBJECT HISTORY (last 3 years)

Council Meeting	Date