



COUNCIL

10 OCTOBER 2022

REPORT TITLE:	SIX MONTH ATTENDANCE RULE S85 (1) OF THE LOCAL GOVERNMENT ACT 1972
REPORT OF:	HEAD OF LEGAL SERVICES (DEPUTY MONITORING OFFICER)

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 report requests that Councillor Joe Walsh is granted permission to be absent from Council meetings for the remainder of the 2022/23 municipal year.

RECOMMENDATION/S

It is recommended that:

The absence of Councillor Joe Walsh from all Council and Committee Meetings be authorised and approved for the remainder of the 2022/23 municipal year, pursuant to Section 85 (1) of the Local Government Act 1972

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 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. Councillor Joe Walsh has been unable to attend meetings due to ill health.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 The proposal in this report is made to avoid Councillor Joe Walsh being disqualified from office for non-attendance during a period of ill health. Agreeing to the waiver over a different time period other than until the end of the 2022/23 Municipal Year is an option that Members may wish to consider. Were the Council not to approve the reason for absence, a vacancy would then arise on expiry of the six month period of absence.

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 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 Once any councillor loses office through failure to attend for the six-month period, the disqualification cannot be overcome by the councillor subsequently resuming attendance. Nor can retrospective approval of the Council be sought for an extension.

4.0 FINANCIAL IMPLICATIONS

- 4.1 If the recommendations are approved, Councillor Walsh will continue to receive the basic allowance which all Councillors are entitled to receive. As this is budgeted for, there are no financial implications arising from the recommendations within this report.

5.0 LEGAL IMPLICATIONS

- 5.1 If the recommendation set out in this report is not approved Councillor Joe Walsh would become disqualified due to the six month non-attendance rule if he is unable to attend a meeting before 25 November 2022. 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 a Members may become automatically disqualified. This will mean that some electors will be under-represented as there cannot be any by elections before May 2023.

8.0 ENGAGEMENT/CONSULTATION

8.1 The Leader of Cllr Walsh’s Political Group has consulted other Group Leaders on the proposal to approve a period of absence from meetings for Cllr Walsh 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.

11.0 COMMUNITY WEALTH IMPLICATIONS

11.1 There are no direct community wealth implications arising from this report.

REPORT AUTHOR: Vicki Shaw
Head of Legal Services
Telephone: 0151 691 8481
Email: vickishaw@wirral.gov.uk

APPENDICES

None

BACKGROUND PAPERS

Local Government Act 1972

SUBJECT HISTORY (last 3 years)

Council Meeting	Date