

OFFICER DECISION FORM

DECISION TO BE TAKEN BY: Head of Legal Services & Interim Monitoring Officer

KEY DECISION No

DIRECTORATE: Law and Governance

WARDS AFFECTED: Heswall

SUBJECT: DECLARATION OF CASUAL VACANCY IN THE HESWALL WARD

1.0 DECISION:

- 1.1 The Head of Legal Services and Interim Monitoring Officer has declared a casual vacancy in the Heswall ward due to the failure of a Member for that ward during a period of six consecutive months from the date of his last attendance to attend any meeting of the Council.

2.0 REASONS FOR THE DECISION

- 2.1 A casual vacancy needs to be declared due to a Member ceasing to be a member of the authority by reason of their failure to attend throughout a period of six consecutive months from the date of their last attendance at any meeting of the Council.

3.0 STATEMENT OF COMPLIANCE

- 3.1 The recommendations are made further to legal advice and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been completed. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

4.0 DECLARATION OF INTEREST

- 4.1 None.

Signed:

Officer: Vicki Shaw

Title: Head of Legal Services & Interim Monitoring Officer

Date: 28/11/2022

A list of background papers on this issue is held with:

Contact Officer: Vicki Shaw

Date: 28/11/2022

Date of Publication:

Date of Expiry of Call-In Period: Not applicable

Report Title:	DECLARATION OF CASUAL VACANCY IN THE HESWALL WARD
Report of:	HEAD OF DEMOCRATIC SERVICES

REPORT SUMMARY

This report seeks approval for the declaration of a casual vacancy in the Heswall ward due to the failure of a member of the authority during a period of six consecutive months from the date of his last attendance to attend any meeting of the Council.

This matter affects the Heswall Ward within the Borough.

This matter is not a Key Decision.

RECOMMENDATIONS

The Head of Legal Services and Interim Monitoring Officer is recommended to declare a casual vacancy in the Heswall ward due to the failure of a Member for that ward during a period of six consecutive months from the date of his last attendance to attend any meeting of the Council.

SUPPORTING INFORMATION

1.0 REASONS FOR RECOMMENDATIONS

- 1.1 A casual vacancy needs to be declared due to a Member ceasing to be a member of the authority by reason of their failure to attend throughout a period of six consecutive months from the date of their last attendance at any meeting of the Council.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 Section 86 of the Local Government Act 1972 states that the office of member of the Authority should be declared vacant “forthwith”. In the circumstances no other options have been considered given that the timescales are prescribed by statute.

3.0 BACKGROUND INFORMATION

- 3.1 Section 85(1) of the Local Government Act 1972 (the 1972 Act) states that if a Member fails throughout a period of six consecutive months from the date of their last attendance to attend any meeting of the Council, unless the failure was due to some reason approved by the Council before the expiry of that period, the Member will cease to be a councillor. Such failure to attend any meetings does not, however, automatically create a casual vacancy for electoral purposes at that point.
- 3.3 Section 86 (1) (c) of the 1972 Act makes clear that where a Member ceases to be a councillor by reason of failure to attend meetings, their office should immediately, promptly and without delay, be declared vacant. Therefore, a casual vacancy does not occur until the office is declared vacant.
- 3.4 Once the Council has declared the office to be vacant, it is required to immediately give public notice of the casual vacancy. The notice of vacancy must be posted in some conspicuous place or places within the Council’s administrative area and in such other manner, if any, as appears to the Council to be desirable for giving publicity to the notice.
- 3.5 Councillor Connolly who was a Heswall ward member, last attended a meeting on 25 May 2022 when he was present at Annual Council and the reason for his failure to attend has not been approved by the Council before the expiry of the six month period.

4.0 FINANCIAL IMPLICATIONS

- 4.1 The applicable basic Member allowance will cease to be paid to the Member with effect from the date that the Member ceased to be a Councillor.

5.0 LEGAL IMPLICATIONS

- 5.1 In accordance with section 88 of the Local Government Act 1972 no by-election in the Heswall ward can be called, as the vacancy has arisen less than 6 months prior to the all-out Council elections of May 2023.

6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

6.1 There are no impacts in terms of staffing, ICT or assets.

7.0 RELEVANT RISKS

7.1 There is a risk that the Council will fail to comply with the requirements of the Local Government Act 1972 if the vacancy is not declared forthwith. That risk is mitigated by implementing the recommendations within this report.

8.0 ENGAGEMENT/CONSULTATION

8.1 Once the office has been declared to be vacant, the authority is required to immediately give public notice of the casual vacancy. The notice of vacancy must be posted in some conspicuous place or places within the Council's administrative area and in such other manner, if any, as appears to the Council to be desirable for giving publicity to the notice.

9.0 EQUALITY IMPLICATIONS

9.1 There are no equality implications arising directly from this report.

10.0 ENVIRONMENT AND CLIMATE IMPLICATION

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

11.0 COMMUNITY WEALTH IMPLICATIONS

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

REPORT AUTHOR: Steve Fox
Head of Democratic Services
stevefox@wirral.gov.uk

APPENDICES

None

BACKGROUND PAPERS

Meeting attendance reports.

SUBJECT HISTORY

Council Meeting	Date
Not applicable	