

Report to Council

Subject: Non-attendance by a Councillor for six months

Date: 2 September 2020

Author: Service Manager Democratic Services

Purpose

For Council to consider whether to approve a reason for the non-attendance of Councillor Rosa Keneally and to give consideration to accepting reasons relating to Covid-19 as a valid reason for non-attendance at meetings.

Recommendations

That Council:

- 1) Accepts the three month cancellation of scheduled meetings due to Covid-19 followed by a period of ill health as the reason for non-attendance of Councillor Rosa Keneally to avoid forfeiture of office;**
- 2) Accepts the reasons for non-attendance specified in paragraph 2.2 of the report to apply to all Members until the Annual Meeting to be held in May 2021; and**
- 3) Agrees the process for reporting as set out in paragraph 2.4.**

1 Background

- 1.1 Unfortunately Councillor Keneally has been unable to attend any meetings relating to the discharge of the Council's functions in recent months due to the cancellation of meetings between mid-March and the end of May 2020 due to Covid-19, followed by a period of ill health. Councillor Keneally last attended a meeting on 5 March 2020; this was immediately prior to lockdown and the decision to cancel meetings. In this particular instance, the Covid-19 lockdown and subsequent cancellation of meetings has created a situation that would not have ordinarily occurred i.e. a period of illness for less than six months, but nevertheless still requiring a report to Council to comply with legislation.

- 1.2 Section 85(1) of the Local Government Act 1972 states that when a Councillor does not attend any council meeting for six consecutive months, (s)he ceases to be a member of the authority unless the Council accepts the reason for his/her non-attendance
- 1.3 The Council can only consider a reason before the end of the 6 month period. If the six month period expires the Councillor will automatically cease to be a member and if a Councillor loses their office through non-attendance for the six month period, this cannot simply be overcome by them subsequently resuming attendance. The office does not become vacant automatically and becomes vacant only when the authority declares it to be vacant. Once the Council declares it to be vacant, a casual vacancy arises
- 1.4 Unfortunately, if the Council does not approve the reasons for non-attendance set out in paragraph 2.1 and Councillor Keneally is not able to attend any further Council meetings before 5 September 2020, she will automatically cease to be a member of the Council.
- 1.5 The unusual circumstances in this instance has highlighted the need to have due regard to the implications of Covid-19 on the six month attendance requirement for all Members. In light of the continuing uncertainty posed by the Covid-19 pandemic, specifically if a second wave of infections is experienced, it is considered appropriate for Council to accept certain circumstances around Covid-19 as valid reasons for non-attendance should any Member be at risk of disqualification from office. A specific proposal for this is set out at paragraph 2.2 below.

2 Proposal

- 2.1 It is proposed that Council accepts the cancellation of scheduled meetings between mid-March and the end of May 2020 due to Covid-19, followed by a period of ill health as the reason for the non-attendance of Councillor Keneally to avoid forfeiture of office.
- 2.2 It is also proposed that Council approves in relation to all Members, the following reasons for failure to attend meetings for six consecutive months to avoid forfeiture of office under Section 85(1) of the Local Government Act 1972:
 - 1) The Member has been infected by Covid-19 as confirmed by a test;
 - 2) The Member is in quarantine or self-isolating in relation to Covid-19 for example following a test or advice from NHS Test and Trace service;

- 3) The Member has been advised to shield and is unable to attend the meeting remotely;
- 4) The Member is unable to attend the relevant meeting because the meeting is cancelled or postponed for a reason relating to Covid-19.

2.3 It is proposed that the reasons for non-attendance above apply until the Annual Meeting of Council in May 2021.

2.4 If Council accepts this proposal it will not be necessary for a report to be considered by Council where a member fails to attend meetings for the reasons set out above. In order to regulate the process, it proposed that the Member in question or the Group's Business Manager or Group Leader must notify the Chief Executive in writing before the expiry of the six-month period setting out which of the above reasons relate to the Member's non-attendance for the preceding six months. The Chief Executive will confirm in writing that the reasons approved by Council apply and the member is not automatically disqualified from office under Section 85. The Chief Executive will communicate this to Councillors and will report it for information to the next appropriate meeting of Council. This will ensure transparency and clarity for all Council Members and members of the public.

3 Alternative Options

3.1 Council may decide not accept the reason outline in paragraph 2.1 above which would result in the Councillor ceasing to be a member of the authority.

3.2 In future considerations, Council could decide not to authorise the reasons for non-attendance as described in paragraph 2.2, in which case individual cases where a Member has been unable to attend meetings for Covid-19 related reasons will need to be reported to Council to determine whether the reason for non-attendance is accepted.

3.3 Council could decide not to agree the process for report reasons for non-attendance to the Chief Executive and notification to councillors. However without this, there may not be certainty about the non-attendance of a Member and lack of clarity as to whether they have been automatically disqualified from office.

4 Financial Implications

4.1 There are no financial implications arising from this report.

5 Legal Implications

5.1 Section 85(1) of the Local Government Act 1972 states that elected Members should attend formal meetings at least once in any six month period. The Act states that should a Member not attend such a meeting, Council must authorise a reason for non-attendance prior to the end of the six month period otherwise the Member will cease to be a Member and a casual vacancy will arise.

5.2 If a casual vacancy were to occur and a by-election was triggered, Regulation 6 of The Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) Regulations 2020 provides that any election will take place on 6 May 2021.

6 Equalities Implications

6.1 There are no equalities implications arising from this report.

7 Carbon Reduction/Environmental Sustainability Implications

7.1 There are no environmental sustainability implications arising from this report.

8 Appendices

8.1 None

9 Background Papers

9.1 None identified

Statutory Officer approval	
Approved by:	Chief Finance Officer
Date: 13 August 2020	
Approved by:	Monitoring Officer
Date: 13 August 2020	