

COUNCIL

23 APRIL 2020

APPROVAL OF REASON FOR ABSENCE OF A COUNCILLOR FROM MEETINGS

Report from: Perry Holmes, Chief Legal Officer

Author: Julie Keith, Head of Democratic Services

Summary

This report asks the Council to approve the following reasons for failure by any Councillor to attend meetings because of the COVID-19 pandemic from 23 April 2020 – 8 October 2020:

- i) the protection of the health of the residents of the area or;
- ii) the health of the individual Member.

This matter shall remain under review and a further report shall be presented to the Council meeting on 8 October 2020 if necessary.

1. Budget and Policy Framework

- 1.1 The approval of reasons for the absence by a Councillor from meetings is a matter for the Council to determine.

2. Background

- 2.1 Section 85(1) of the Local Government Act 1972 says that if a Councillor fails throughout a period of six consecutive months to attend any meeting of the authority they shall cease to be a member of the authority. Furthermore, Section 85(2A) of the 1972 Act provides if a member of the Executive (Cabinet) fails to attend any meeting of the Executive throughout a period of six consecutive months they shall cease to be a member of the authority. However, those sections enable a Local Authority to approve the reason for non-attendance, provided that approval is given by the Authority before the expiry of the six month period.
- 2.2 It is therefore proposed that from 23 April 2020 - 8 October 2020 inclusive, the protection of the health of the residents of the area or the health of the individual Councillor shall be an approved reason for the non-attendance of a Member at any meeting (including, in the case of members of the Executive (Cabinet), non-attendance at meetings of the Executive) because of the COVID-19 pandemic. A meeting of the Council is planned for 8 October 2020,

therefore, if the timescale of this provision needs to be extended a further report will be presented to that meeting.

3. Risk management

- 3.1 The Council is invited to consider this matter now to avoid the risk that any Councillors may lose their seats on the Council.
- 3.2 It is critical that all Councillors act in accordance with Government advice during the COVID-19 pandemic. The current advice states that individuals must stay at home and should only leave home for very limited purposes. In support of this, only essential meetings, with a minimum number of Councillors present, shall be taking place during this period.
- 3.3 The Coronavirus Act 2020, which received royal assent on 25 March 2020, allows, amongst other matters, for remote participation in meetings. The Local Authorities (Coronavirus) (Flexibility of Local Authority Meetings) (England) Regulations 2020 provide further detail to enable such remote participation. A Member participating in a meeting remotely in accordance with the new Regulations will be recorded as having attended the meeting in the same way as if they were in the meeting room. Officers from Democratic Services, Legal Services and ICT are currently developing a solution in support of this and Councillors will be fully informed of progress.

4. Financial and legal implications

- 4.1 There are no financial implications arising from this report.
- 4.2 The relevant legal implications and requirements are set out in detail in the body of the report.

5. Recommendation

- 5.1 The Council is asked to agree that from 23 April 2020 - 8 October 2020 inclusive, under the provisions of Sections 85(1) and Section 85(2A) of the Local Government Act 1972, the protection of the health of the residents of the area or the health of the individual Councillor shall be an approved reason for the non-attendance of a Member at any meeting (including, in the case of members of the Executive (Cabinet), non-attendance at meetings of the Executive).

Lead officer contact:

Perry Holmes, Chief Legal Officer

Tel: 01634 332133

E-mail: perry.holmes@medway.gov.uk

Appendices

None

Background papers

Government advice Coronavirus (COVID-19): UK transport and travel advice:

<https://www.gov.uk/guidance/coronavirus-covid-19-uk-transport-and-travel-advice>

Coronavirus Act 2020 (section 78 refers):

<http://www.legislation.gov.uk/ukpga/2020/7/contents/enacted/data.htm>

The Local Authorities (Coronavirus) (Flexibility of Local Authority Meetings)
(England) Regulations 2020:

<https://www.legislation.gov.uk/uksi/2020/392/contents/made>