

COUNCIL

16 JULY 2020

APPROVAL OF REASON FOR ABSENCE OF A COUNCILLOR FROM MEETINGS

Report from: Perry Holmes, Chief Legal Officer

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Summary

Council, on 23 April 2020 approved 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 report updates Members on this matter and seeks approval to updated reasons for failure by any Councillor to attend meetings for a consecutive period of 6 months from 16 July 2020 to the Annual Council meeting (currently scheduled to take place on 19 May 2021).

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 Council considered a report on 23 April 2020 which agreed 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 (minute no. 810/2020 refers). The report also stated that given a meeting of the Council was planned for 8 October 2020, if the timescale of this provision needed to be extended a further report would be presented to that meeting.

- 2.3 The April report advised Members that it was critical that all Members act in accordance with Government advice during the COVID-19 pandemic. The advice, as of April, stated that individuals must stay at home and should only leave home for very limited purposes. In support of this, Members were advised that only essential meetings, with a minimum number of Members present, would be taking place during this period. (Since April all Members have also received advice on the provisions in the Health Protection (Coronavirus) Restrictions (England) Regulations 2020 which place restrictions on the number of people who may be physically present at meetings).
- 2.4 Furthermore, the April report also advised that 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 (which apply to meetings held before 7 May 2021) 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.
- 2.5 Since April, a number of meetings have been held with remote attendance and participation by Members with meetings broadcast live via the Council's website. In common with all Local Authorities, Medway has been prioritising essential meetings in recognition of the impact of COVID19 on Member and officer capacity. To assist with the effective running of meetings (recognising that remote participation can significantly extend the length of meetings), the Conservative and Labour and Co-operative political Groups have also agreed for some meetings take place with a reduced politically balanced attendance.
- 2.6 The Council is asked to review and add to the reasons it has agreed are considered acceptable for a member to fail to attend a meeting throughout a period of 6 consecutive months in the context of the emerging impact of COVID19 on the arrangements for formal Member level meetings. The Council is asked to recognise at this point that in addition to health and caring responsibilities there may be instances where Members may not able to participate in meetings remotely for technical reasons, or for internet connection issues.
- 2.7 The Council is also recommended to extend the period for the approval of reasons for failure by any Councillor to attend meetings until the end of the current municipal year (the next Annual Council meeting is scheduled to take place on 19 May 2021). A further report can be presented to Members for consideration, as required, at Annual Council next May. A review of other Local Authorities has been undertaken and these proposals are consistent with the position elsewhere.

2.8 Attendance at meetings is only one aspect of a Member's role, and Members continue to undertake their wider responsibilities, in particular, their ward work, in the usual way.

3. Risk management

3.1 The Council is invited to reconsider this matter now to avoid the risk that any Councillors may lose their seats on the Council.

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 16 July 2020 to the Annual Meeting of the Council (currently scheduled to take place on 19 May 2021) inclusive, under the provisions of Sections 85 (1) and Section 85 (2A) of the Local Government Act 1972 the following reasons shall be approved for the non-attendance of a Member at any meeting throughout a period of 6 consecutive months (including in the case of executive members attendance at meetings of the Cabinet):

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

Or

- Illness, with apologies sent if at all possible;
- Maternity, paternity, adoption or other parental leave;
- Caring responsibilities;
- Cancellation of meetings which the Member would otherwise have been expected to attend;
- Agreement between the Council's political groups to reduced numbers at some meetings;
- Problems accessing a remote meeting which the Member would otherwise be expected to attend, subject to the Democratic Services Officer or Chairman receiving notification of this before the end of the meeting.

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Appendices

None

Background papers

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>

Health Protection (Coronavirus Restrictions) (England) Regulations 2020:

<http://www.legislation.gov.uk/uksi/2020/350/contents/made>