

COUNCIL

7 OCTOBER 2021

APPROVAL OF REASON FOR ABSENCE OF A COUNCILLOR FROM MEETINGS

Report from: Bhupinder Gill, Assistant Director, Legal and Governance
Author: Wayne Hemingway, Head of Democratic Services

Summary

Council, on 16 July 2020, approved the reasons for failure by any Councillor to attend meetings because of the COVID-19 pandemic from 16 July 2020 until the Annual Council meeting in May 2021 (this meeting was held on 5 May 2021).

This report updates Members on this matter and seeks approval to the reasons for failure by any Councillor to attend meetings for a consecutive period of 6 months from 7 October 2021 to the Annual Council meeting (currently scheduled to take place on 18 May 2022).

This report also asks the Council to approve the reason for failure to attend meetings by Councillor Nick Bowler owing to ill health.

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 initially 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).

2.3. Council considered a further report on 16 July 2020 which agreed the following from 16 July 2020 to the Annual Council meeting in May 2021 (5 May 2021):

2.3.1. 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 (minute no. 100/2020 refers).

2.4. Members will recall that The Local Authorities (Coronavirus) (Flexibility of Local Authority Meetings) (England) Regulations 2020 allowed meetings to take place remotely between April 2020 until 6 May 2021. Since 7 May 2021, meetings have taken place with Members attending in person either at the St. George's Centre or at Gun Wharf. Until 31 August 2021, some of these meetings were still held with a reduced politically balanced attendance as a result of an informal agreement between the Conservative and Labour and Co-operative Groups in place since the beginning of the Pandemic. Since 1 September 2021, all meetings have taken place with full attendance by Members. As things currently stand, all Members of the Council must attend a meeting within 6 months of the Annual Council meeting which was held on 5 May 2021.

2.5. It is still possible that Members may not be able to attend meetings during the Pandemic, therefore, it would seem prudent that 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) between 7 October 2021 until the Annual Council meeting in May 2022 (currently scheduled for 18 May 2022):

- 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;

- 2.6. These are the same reasons as during 2020/2021 with the exception of accessing remote meetings given that it is no longer possible for Members to attend meetings remotely. Whilst there is currently no agreement between the political groups regarding reduced numbers, it is included should such an agreement be required again during this period.
- 2.7. Separately, Councillor Nick Bowler, who is one of the Councillors representing Rochester East ward, is currently unable to attend meetings owing to ill health. As stated earlier in the report, Section 85 of the Local Government Act 1972 says that if a member of a local authority fails throughout a period of six consecutive months from the date of his/her last attendance to attend any meeting of the authority, he/she 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.
- 2.8. The last meeting attended by Councillor Bowler was on 21 July 2021 (Planning Committee). Notwithstanding that Councillor Bowler would be covered until the Annual Council meeting in May 2022 by the proposed decision set out in recommendation 5.1 of the report, at the request of the Leader of the Labour and Co-operative Group, this report asks the Council to agree that Councillor Bowler should not cease to be a member of the Council, if as a consequence of his ill health, he is unable to attend any meeting of the authority for any period of six consecutive months or longer.
- 2.9. Should Members agree this recommendation, the decision will be effective until the next local elections, scheduled to take place in May 2023. On the same basis, Members will recall that Council agreed in October 2019 that Councillor Clarke should not cease to be a member of the Council, if as a consequence of his ill health, he is unable to attend any meeting of the authority for any period of six consecutive months or longer (minute no.347/2019 refers).

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 the report.
- 4.2. The relevant legal implications and requirements are set out in detail in the body of the report.

5. Recommendations

- 5.1. The Council is asked to agree that, from 7 October 2021 to the Annual Meeting of the Council (currently scheduled to take place on 18 May 2022) 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;

- 5.2. The Council is asked to agree that Councillor Nick Bowler should not cease to be a member of the Council, if as a consequence of his ill health, he is unable to attend any meeting of the authority for any period of six consecutive months or longer, under the provisions of Section 85 (1) of the Local Government Act 1972.

Lead officer contact

Wayne Hemingway
Head of Democratic Services
T: 01634 332509
E: wayne.hemingway@medway.gov.uk

Appendices

None.

Background papers

None.