


Non-Executive Report of the:  <b>Council</b>  Wednesday, 13 November 2019	
<b>Report of:</b> Asmat Hussain, Corporate Director, Governance and Monitoring Officer	<b>Classification:</b> Open (Unrestricted)
<b>Waiver of 6 Month Councillor Attendance Rule (Sec. 85 of the Local Government Act 1972) and Appointment of Mayoral Advisor</b>	

<b>Originating Officer(s)</b>	Matthew Mannion, Head of Democratic Services
<b>Wards affected</b>	(All Wards);

### Executive Summary

Section 85 (1) of the Local Government Act 1972 requires a Member of a Local Authority to attend at least one meeting of that Authority within a six month consecutive period, in order to avoid being disqualified as a Councillor. This requirement can be waived and the time limit extended if such a request is approved by Council in advance of the six month period expiring.

Councillor Mufeedah Bustin is due to be absent on maternity leave from 9 November until the Council's Annual Meeting on 13 May 2020. This period is slightly longer than six months and Councillor Bustin is therefore formally requesting that an extension to the six month rule be approved by Council.

Councillor Mufeedah Bustin is also a Mayoral Advisor as agreed by Council at its Annual Meeting on 15 May 2019. In line with the Maternity Policy for Members, Council is asked to approve replacement cover for that role for the duration of the maternity leave period.

### Recommendations:

The Council is recommended to:

1. Consider the request to extend Councillor Mufeedah Bustin's period of office beyond the six month period of non-attendance provided for within Section 85 (1) of the Local Government Act 1972 on the grounds of being on maternity leave.
2. That Council approve the requested extension of time to expire on 31 May 2020.
3. That Council consider and approve the appointment of a Councillor to be nominated by the Mayor at the meeting as the Mayoral Advisor for Tackling Poverty and Inequalities for the duration of Councillor Mufeedah Bustin's maternity leave.

## **1. REASONS FOR THE DECISIONS**

- 1.1 The extension to the 6 month rule has been requested to ensure that Councillor Mufeedah Bustin is able to return to her role following her period of maternity leave.
- 1.2 As set out in the Maternity Policy for Members, the Mayor may appoint a replacement Mayoral Advisor for the duration of the maternity leave. Appointments to paid positions (except to Cabinet posts) are required to be approved by Council.

## **2. ALTERNATIVE OPTIONS**

- 2.1 None are presented however Council can decide not to grant the requests set out in this report.

## **3. DETAILS OF THE REPORT**

- 3.1 Section 85 (1) of the Local Government Act 1972 states that “if a member of a Local Authority fails, throughout a period of six consecutive months from the date of their last attendance, to attend any meeting of the Authority they will, unless the failure was due to some good reason approved by the Authority before the expiry of that period, cease to be a member of the Authority.” Attendance can be at any committee or sub-committee, or any joint committee, joint board or other body where the functions of the Authority are discharged or who were appointed to advise the Authority on any matter relating to the discharge of their functions.
- 3.2 Councillor Mufeedah Bustin will be on maternity leave from 9 November 2019 until the Council Annual Meeting on 13 May 2020. This is slightly longer than 6 months and so without an agreed extension she would cease to be a Member of the authority.
- 3.3 The Council has an agreed Maternity, Paternity, Adoption and Sickness Pay policy for Members in that they shall continue to receive their Basic Allowance and any Special Responsibility Allowance whilst on leave. This extension to the 6 month rule would therefore ensure the Councillor was able to take maternity leave in line with this policy.
- 3.4 The policy also allows for cover to be agreed for any Special Responsibility Allowance position for the leave period. In this case, Councillor Mufeedah Bustin is the Mayoral Advisor for Tackling Poverty and Inequalities. The Mayor is therefore able to announce cover for that position should he wish. The Councillor covering the position will be entitled to the same Special Responsibility Allowance.

#### **4. EQUALITIES IMPLICATIONS**

- 4.1 The Council's agreed Maternity, Paternity, Adoption and Sickness policies for Members are designed to ensure that all Members are able to take necessary leave whilst continuing to serve as Members of the Council and are therefore a vital part in supporting all residents who would wish to serve as Members to serve their communities.
- 4.2 Waiver extensions to the 6 month rule can only be granted on a case-by-case basis and so cannot be pre-written into the policy. Council is therefore asked to grant this extension request to ensure Councillor Mufeedah Bustin is able to make use of the Maternity policy for Members.

#### **5. OTHER STATUTORY IMPLICATIONS**

- 5.1 This section of the report is used to highlight further specific statutory implications that are either not covered in the main body of the report or are required to be highlighted to ensure decision makers give them proper consideration. Examples of other implications may be:
- Best Value Implications,
  - Consultations,
  - Environmental (including air quality),
  - Risk Management,
  - Crime Reduction,
  - Safeguarding.
  - Data Protection / Privacy Impact Assessment.
- 5.2 Were an extension not to be granted there is a risk that Councillor Mufeedah Bustin would be disqualified from office as a Councillor.

#### **6. COMMENTS OF THE CHIEF FINANCE OFFICER**

- 6.1 There are no financial implications directly associated with this report. Member's allowance payments would be made in line with the Council's Maternity, Paternity, Adoption and Sickness Pay policy for Members, and funded from the identified Members' allowances budget.

#### **7. COMMENTS OF LEGAL SERVICES**

- 7.1 The six-month councillor attendance rule arises from s.85(1) Local Government Act 1972, which states that if a councillor fails to attend any meeting for a period of six consecutive months (starting from the date of their last attendance), they shall cease to be a member of the local authority unless a waiver to this rule has been approved by the local authority before the expiry of this period. S.85(2) goes on to state that attendance includes the councillor's attendance as a member at any committee or sub-committee meeting of the local authority, or at a meeting of any joint-committee, joint board or other board through which the functions of the local authority are

discharged. Attendance as a member at a meeting of any body of persons would also count as attendance for the purposes of s.85(1) of the Act.

- 7.2 Under s.1 Equality Act 2010, LBTH as a local authority must have due regard to the desirability of exercising its functions in a way that is designed to reduce the inequalities which result from social-economic disadvantage. Pregnancy and maternity is a protected characteristic under the Act which is defined as such in order to reduce discrimination. S.18 Equality Act 2010 specifically relates to pregnancy and maternity discrimination in relation to work cases (for this purpose, Cllr Mufeedah Bustin's position as a councillor would be considered a work case). S.18(3) states that a person discriminates against a woman if they treat her unfavourably because she is on compulsory maternity leave. Alternatively, s.18(4) of the Act states a person discriminates against a woman if they treat her unfavourably because she is exercising or seeking to exercise, or has exercised or sought to exercise, the right to ordinary or additional maternity leave. With regard to this part of the Equality Act 2010, the waiver of the six-month councillor attendance rule in relation to Cllr Bustin's maternity leave can be considered an appropriate measure taken by LBTH in order to reduce any resulting inequality and mitigate any potential discrimination.

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## **Linked Reports, Appendices and Background Documents**

### **Linked Report**

- None.

### **Appendices**

- None.

### **Local Government Act, 1972 Section 100D (As amended)**

#### **List of "Background Papers" used in the preparation of this report**

List any background documents not already in the public domain including officer contact information.

- None.

#### **Officer contact details for documents:**

N/A