


Non-Executive Report of the:  <b>General Purposes Committee</b>  Tuesday, 16 June 2020	
<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)</b>	

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

### **Special Circumstances Justifying Urgent Consideration**

This report has been added to the meeting agenda with less than the statutory 5 clear days' notice as it has only recently been determined that the report would be required. The report cannot wait for the next meeting as this is the last opportunity to agree a waiver before the first Member(s) would be impacted by the 6 month attendance rule requirements.

### **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 in advance of the six month period expiring.

The Covid-19 Pandemic has resulted in the cancellation or re-arrangement of a significant number of Committee meetings as well as a number of meetings of Council. This may result in some Members being impacted by this attendance requirement. This report therefore asks for approval to waive the statutory 6-month rule for the time being.

Such requests would normally be considered by a meeting of Council but in light of that cancellation of current Council meetings, the General Purposes Committee is asked to use its emergency powers as set out in its Terms of Reference to agree to the waiving of 6 Month Councillor Attendance Rule.

### **Recommendations:**

The General Purposes Committee is recommended to:

1. Consider the request to extend the period of office for any required Councillors beyond the six month period of non-attendance provided for within Section 85 (1) of the Local Government Act 1972 on the grounds of

the impact of the Covid-19 Pandemic.

2. To agree to use its emergency powers to approve the requested extension of time to expire on 31 October 2020.

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

- 1.1 The extension to the 6 month rule has been requested to ensure that no Member is adversely impacted by the ongoing Covid-19 Pandemic.

## **2. ALTERNATIVE OPTIONS**

- 2.1 None are presented however General Purposes Committee 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 The current Covid-19 Pandemic has resulted in the cancellation of recent meetings of Council, with the next meeting not now expected until the autumn 2020. In addition, the pandemic has also resulted in the cancellation and/or rearrangement of many other Council Committee meetings.
- 3.3 In particular where a Councillor is not a Member of many Committees, they therefore run the risk of not being able to attend enough meetings to meet the six month statutory requirement.
- 3.4 For example, Councillor Harun Miah is solely a Member of Council. He attended the meeting of Council on 19 February 2020. He would need to attend another meeting of Council by 19 August 2020 to meet the 6 month attendance rule requirements. No further meetings of Council are expected until September 2020 at the earliest.
- 3.5 In addition, as well as having less meetings to attend, the pandemic may cause illness which prevent Member attendance at individual meetings. With fewer meetings available there may not be a suitable one for the Member to attend to make up for the earlier non-attendance.

- 3.6 The Covid-19 Pandemic also has a further impact in that were a Member disqualified from office for non-attendance, a by-election could not be held until May 2021 thus depriving residents of representation for an extended period.
- 3.7 The proposed waiver extension to 31 October 2020 would take the deadline beyond the next planned meeting of General Purposes Committee where the policy could be reviewed, if it has not already been reviewed at Council.

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

- 4.1 Agreeing a non-attendance waiver helps ensure that no Members are adversely impacted by the Covid-19 Pandemic resulting in disqualification from office.

#### **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 one or more Councillors would be disqualified from office as a Councillor.

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

- 6.1 This report recommends agreement to the extension of the waiver for the 6 Month Councillor Attendance Rule to the 31<sup>st</sup> October 2020. There are no direct financial implications arising from this report.

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

- 7.1 The Recommendation of the report seeks Members' agreement to utilise its emergency powers to approve the extension of the period of office for any Councillors, where necessary, beyond the six month statutory limitation period for non-attendance set out in Section 85 (1) of the Local Government Act 1972.
- 7.2 Members' will note that the necessity for the Recommendation is due to the impact of the Covid-19 Pandemic and the need to maintain the business of

the authority in response. The extension sought will remain in place until the 31 October 2020.

- 7.3 As advised in the report, s85(1) Local Government Act 1972 provides 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.
- 7.4 S.85(2) further states 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.
- 7.5 In accordance with Section 60 of the Corona Virus Act 2020 elections due to be held on 7 May 2020 are suspended until May 2020. Therefore, as advised at paragraph 3.6 of the report the current statutory 6 month limitation period would have the negative impact of depriving residents of representation for an extended period in the event that a Member were disqualified from office for non-attendance as a by-election could not be held until May 2021.
- 7.6 Members' have the authority to approve this recommendation pursuant to Part B, paragraph 9 (General Purpose Committee), sub- paragraph 16 of the Constitution.
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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