

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

CHIEF EXECUTIVE'S URGENT DECISION ON BEHALF OF

Council
28 April, 2020

Report Title: Member Disqualification and Allowances

Submitted by: Monitoring Officer

Portfolios: Corporate & Service Improvement, People & Partnerships

Ward(s) affected: N/A

Purpose of the Report

To disapply the rules in relation to disqualification and withdrawal of member allowances on account of non-attendance at Council/Committee meetings

Decision

That, using the urgency powers set out in the Constitution:-

- 1. In accordance with S85(1) or the Local Government Act 1972 the Member disqualification provisions of S85(1) are suspended from 19 March 2020 until the date upon which full Council next meets (otherwise than by remote means) on an unrestricted attendance basis.**
- 2. For the same period of time, any provision restricting the payment of member allowances on account of non-attendance at council or committee meetings is also suspended.**

Reasons

To ensure that no members are disadvantaged on account of an inability to attend Council meetings (whether in person or by remote means) whilst following government directions or advice that are in effect from time to time in relation to lock-down, shielding, self-isolation or social distancing in response to the Covid-19 pandemic.

1. Background

- 1.1 This decision is taken in accordance with paragraph 1 ("Matters of Urgency") on page 78 of the Council's Constitution. The urgency arises on account of the need for this decision to be taken at a time before a meeting of full Council is able to be convened. This being a decision that can only be taken by full Council. In accordance with the urgency provisions, the Mayor has been consulted. Additionally, each Group Leader has also been consulted. All those consulted were content with the decision proposed.**

1.2 S85(1) of the Local Government Act 1972 provides that members will cease to be members of the Council if they fail to attend a meeting of the authority in a consecutive period of 6 months, unless the failure to attend is approved by the Council prior to the end of the relevant 6 month period.

1.3 A failure to attend (and clearly disqualification) is capable of having an impact on allowances payable to members under the Council's Scheme of Member Allowances.

1.4 In light of the current Covid-19 pandemic, there is a need to ensure that these rules do not operate to the detriment of members where they are unable to attend meetings for that reason.

2. **Issues**

2.1 It is not known how long the current pandemic will last, nor how long any combination of measures such as "lock-down", self-isolation, shielding or social-distancing will be in force under government direction or advice.

2.2 Whilst Regulations have been passed which allow "attendance" at meetings by remote means during this time, the Council has taken the prudent step of suspending a number of non-decision making meetings and reducing, at least initially, the number of committee members required to "attend" those meetings that will continue to be held remotely.

2.3 As a result, the Regulations may not assist those members who are not currently required to attend meetings that are being held remotely from avoiding the application of the 6-month rule. It is, therefore, prudent for a decision to be taken under urgency procedures on behalf of full Council to disapply that rule.

2.4 The date of 19 March 2020 is chosen as the date upon which to "stop the clock" as this is the day after the last normal meetings took place before government restrictions came into effect.

3. **Proposal**

3.1 That, using the urgency powers set out in the Constitution:-

3.1.1 In accordance with S85(1) of the Local Government Act 1972 the Member disqualification provisions of S85(1) are suspended from 19 March 2020 until the date upon which full Council next meets (otherwise than by remote means) on an unrestricted attendance basis.

3.1.2 For the same period of time, any provision restricting the payment of member allowances on account of non-attendance at council or committee meetings is also suspended.

4. **Reasons for Proposed Solution**

4.1 To ensure that no members are disadvantaged on account of an inability to attend Council meetings (whether in person or by remote means) whilst following government directions or advice that are in effect from time to time in relation to lock-down, shielding, self-isolation or social distancing in response to the Covid-19 pandemic.

5. **Options Considered**

5.1 Consideration was given as to whether the clock should be re-set as at the point of the next unrestricted Council meeting, however it was considered that this would be going beyond the purpose and intention of S85(1).

5.2 Parliament clearly intended to make it a requirement for Members to attend at least one meeting in a consecutive 6 month period if Members were to remain Members. Thus whilst there grounds upon which the rule can legitimately be suspended, it should only be suspended for the period of time necessary.

5.3 The S85(1) power enables the clock to be stopped only, it does not allow it to be reset.

Accordingly any period of non-attendance which is to be excused under the provision in S85(1) and by this decision can only cover the period set out. Once the suspension ends, each members' 6 month period shall be calculated from the date upon which they last attended a meeting prior to 19 March 2020, but discounting any period of time between March 2020 and the date of the next "normal" council meeting (i.e. one that takes place on an unrestricted attendance basis).

6. **Legal and Statutory Implications**

6.1 Dealt with in the body of the report.

7. **Equality Impact Assessment**

7.1 This decision promoted equality so as not to discriminate against those who may not be able to take part in remote meetings on account of any protected characteristic.

8. **Financial and Resource Implications**

8.1 None identified.

9. **Major Risks**

9.1 Dealt with in the body of the report.

10. **Sustainability and Climate Change Implications**

10.1 None identified.

11. **Key Decision Information**

11.1 This is not a Key Decision.

12. **Earlier Cabinet/Committee Resolutions**

12.1 Not Applicable.

13. **List of Appendices**

13.1 Not Applicable.

14. **Background Papers**

14.1 Not Applicable

DECIDED BY:-

Martin Hamilton (Chief Executive) under the aforementioned powers

A handwritten signature in black ink that reads "Martin T. Hamilton". The signature is written in a cursive style with a large initial 'M' and 'H'.

Signed

Dated 28 April 2020

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