



## **CORPORATE GOVERNANCE COMMITTEE - 26 MAY 2023**

### **REPORT OF DIRECTOR OF LAW AND GOVERNANCE**

#### **DISPENSATION FOR NON-ATTENDANCE**

##### **Purpose of report**

1. The purpose of this report to advise the Committee of a request for a dispensation from Mr M Mullaney CC submitted on behalf of Mrs L Broadley CC for a dispensation under the six-month rule in S.85 of the Local Government Act 1972 be approved to allow her to continue to hold office despite her anticipated non-attendance at Council meetings.

##### **Policy Framework and Previous Decisions**

2. The Articles of the Council's Constitution set out the role and functions of elected members of the Council and their key roles. The Terms of Reference of this Committee include responsibility for granting dispensation to members from vacation of office by reason of failure to attend meetings<sup>1</sup>.
3. There is no relevant policy in relation to the granting of dispensation.

##### **Background**

###### **Legal issues**

4. Section 85 (1) of the Local Government Act 1972 provides 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.
5. For these purposes attendance includes attendance as a member at a meeting of any committee or sub-committee, or any joint committee, joint board or other body where the functions of the Authority are discharged.
6. This requirement in relation to attendance may be waived, and the time limit extended if any failure to attend is due to a reason approved by the Authority. This dispensation must be granted in advance i.e. before the expiry of the six month period; the issue cannot be addressed by the member resuming attendance after that period and nor can retrospective dispensation be granted. If no dispensation is

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<sup>1</sup> LCC Constitution Part 2 Art 9.03(j) and part 3 Section B

granted the elected members ceases automatically to hold as office as a member of the council and a vacancy occurs.

7. The legislation does not set out any prescribed criteria by which the dispensation request is to be determined but as with all public law decision-making any decision should be rational, based on evidence and take all relevant factors into account.

### Reasons

8. Mrs Broadley CC last attended County Council on 22 February 2023 and if she fails to attend a meeting of the Council before 22 August 2023, she will automatically cease to be a member of the Council. Unfortunately, a member of her immediate family is suffering ongoing serious ill health and Mrs Broadley CC has assumed a caring responsibility for that family member which also impacts upon her own health and wellbeing and her availability to undertake her role as an elected member of this Council. Mrs Broadley CC does not expect to be in a position to attend the Council meeting on 5 July 2023 and the next available scheduled meeting which Mrs Broadley CC would ordinarily attend is not scheduled to take place until 27th September (County Council) or 28th September (Employment Committee). Both of these dates are outside of the relevant six-month period from the date of last attendance.

### Proposals/Options

9. The Council has expressed a commitment to supporting staff who have caring responsibilities and offer a number of support arrangements to facilitate this including requesting a change to contractual hours, smarter working, statutory requests for flexible working, career breaks etc. It is suggested that similar flexibility and support should be afforded to elected members of the Council where caring responsibilities make this appropriate.

Option	Comment
<i>Option 1:</i> To approve the dispensation on an open-ended basis	This would allow Mrs Broadley CC to remain a member of the Council until the end of her term of office with no further attendance required.
<i>Option 2:</i> To approve the dispensation for a time limited period	The relevant legislation does not expressly refer to time limited dispensations but nor is this precluded, and this was a common model adopted by many councils throughout the Covid-19 pandemic. Further it should be noted that any time limited dispensation would not preclude Mrs Broadley CC attending any meeting within the period of the dispensation in the event that her caring responsibilities allowed and in these circumstances the dispensation would cease at that point.
<i>Option 3:</i> Not to approve the dispensation	Mrs Broadley's term of office will end automatically on 22 August 2023 (unless she attends one of the meetings referred to in para 8 above) and there will be a requirement for a by-election.

10. The Committee is requested to decide which option it wishes to approve in relation to this issue. If the Committee is minded to approve Option 2 , the committee is also requested to determine the length of the dispensation.

### **Resource Implications**

11. None.

### **Timetable for Decisions**

12. The decision on whether to grant the dispensation must be made before 22 August and there are no other meetings of this committee before that date.

### **Conclusions**

13. The Committee is invited to consider the dispensation request as set out above.

### **Background papers**

LCC Constitution

### **Circulation under the Local Issues Alert Procedure**

Not relevant

### **Officer to Contact**

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### **List of Appendices**

None

### **Relevant Impact Assessments**

#### **Equality Implications**

Being a carer does not confer protected characteristic status under Equality Act 2010.

#### **Human Rights Implications**

None

#### **Crime and Disorder Implications**

None

Environmental Implications

None

Partnership Working and associated issues

None

Risk Assessment

Not relevant