

East Herts Council Report

Officer Delegated Decision – Chief Executive

Date of Decision: 15 April 2020

Report by: James Ellis, Head of Legal and Democratic Services

Report title: Report of decision of Chief Executive taken under delegated authority - approval of absence of Members for reasons arising from coronavirus impact on ability to attend meetings

Ward(s) affected: All

Summary

The Chief Executive has taken a decision under delegated authority, which approved dispensation from the provisions of section 85 of the Local Government act 1972, where a Member would otherwise become disqualified for reasons of non-attendance at qualifying meetings. The decision is reported to the next meeting of Council, as required by the Constitution.

RECOMMENDATION FOR COUNCIL:

- (a) To note the decision taken by the Chief Executive under delegated powers on 15 April 2020, as set out at appendix A.**

1.0 Proposal(s)

- 1.1 That Council note a decision taken on 15 April 2020 by

the Chief Executive on approving a dispensation for absence from meetings of the Council, in respect of two Members, Councillors Burmicz and Ranger.

2.0 Background

- 2.1 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 his or her last attendance to attend any meeting of the authority, he or 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 that authority.
- 2.2 Due to the measures currently being taken to mitigate the spread of coronavirus, a number of meetings of the Council's committees in March and April, and the next meeting of the Executive on 21 April 2020, were cancelled or postponed. For this reason, the opportunities to attend such meetings were no longer available to Members, thus impacting on the ability of a small number of Members to avoid the risk of vacation of office.
- 2.3 Regulations made under the Coronavirus Act 2020 recently enacted make provision for virtual meetings to take place until May 2021. This means that there will be opportunities for all Members to attend qualifying virtual meetings until this date.
- 2.4 In view of the Coronavirus outbreak, there is a risk of non-attendance by any individual even for remotely conducted meetings, if for example they or a family member were to be unable to participate in a remote meeting, or be absent through illness. In the case of Members who had limited time before they risked vacation of office for non-attendance, there was a need to provide a contingency to mitigate the risk of inadvertent vacation of office in those circumstances.
- 2.5 The majority of Members attended a meeting in March,

the Council meeting of 3 March 2020. The decision taken by the Chief Executive confirmed there would be dispensation for attendance for Councillors Burmicz, and Ranger, whose last attendances at a qualifying meeting were 29 January 2020 and 23 October 2019, respectively.

- 2.6 The approval of non-attendance at meetings of a Member is a matter for Council to determine. The next meeting of the Council was not until 13 May 2020, and one of the Members named above would have faced vacation of office prior to that date without dispensation being arranged in advance. Therefore the Chief Executive took the decision under delegated powers. The decision is therefore reported to Council at its next meeting.

3.0 Reason(s)

- 3.1 To avoid inadvertent vacation of office of two Members, in view of extraordinary circumstances occasioned by the coronavirus outbreak.

4.0 Options

- 4.1 Not to provide dispensation from attendance. This option was rejected because the Members concerned confirmed that they would have attended meetings had such meetings not been cancelled, and were intending on attending meetings during the next two months. Both Members wished to seek dispensation to avoid risk of vacation of office.

5.0 Risks

- 5.1 None.

6.0 Implications/Consultations

- 6.1 The Leader and Members who were the subject of the decision, were consulted.

Community Safety

No

Data Protection

No

Equalities

No

Environmental Sustainability

No

Financial

No

Health and Safety

No

Human Resources

No

Human Rights

No

Legal

Yes, as indicated above.

Specific Wards

Yes, the Wards of the Councillors referred to above.

7.0 Background papers, appendices and other relevant material

- 7.1 No background papers.
- 7.2 Appendix A – decision of Chief Executive

Contact Member

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