

Council

Date of Meeting: 21 October 2020

Report Title: Approval of the Continuing Absence of Any Elected Member, Arising from Issues Relating Directly or Indirectly to COVID-19

Senior Officer: Lorraine O'Donnell, Chief Executive

1. Report Summary

- 1.1. This report sets out a proposal in relation to Elected Members' required attendance at Council meetings, in accordance with the Local Government Act 1972, in order to ensure that appropriate electoral representational arrangements continue to be in place throughout the Borough during the period of the COVID-19 crisis.
- 1.2. It follows a decision taken under urgency procedures in July to approve the continuing absence of any Elected Member, arising from issues relating directly or indirectly to COVID-19, until 31st October 2020, thereby securing their continued membership of the Council until that day. As the period covered by that decision comes to an end on 31st October, Council is asked to approve a further extension to 28th February 2021.

2. Recommendations

- 2.1. That Council approve the continuing absence of any Elected Member, arising from issues relating directly or indirectly to COVID-19, until 28th February 2021.

3. Reasons for Recommendations

- 3.1. To ensure that appropriate electoral representational arrangements continue to be in place throughout the Borough during the period of the COVID-19 crisis.

4. Other Options Considered

- 4.1. There are no other options, although Council could vary the period of extension. This decision is required in order to meet the legal requirements regarding elected members' attendance at meetings.

5. Background

- 5.1. Section 85 of the Local Government Act 1972 sets out a number of provisions in respect of attendance of Members at Council meetings. In particular, the Act states that, if a Member fails to attend a meeting of the authority for a period of six consecutive months from the date of his/her last attendance, he or she will cease immediately to be a member of the Authority. The Council has the power to approve the absence of a Member for "some reason" so long as this is done before the expiry of the six-month period, thereby preventing the cessation of the membership of the Member(s) in question.
- 5.2. The onset of the COVID-19 pandemic, and the subsequent "lockdown" and social distancing measures, made it necessary to cancel a number of Council meetings which Elected Members would ordinarily have been expected to attend, such as the meetings of full Council in May and July. In some cases, Members had been unable to attend meetings prior to, or in the early stages of, the pandemic, eg through illness. Others were subsequently unable to do so as a consequence of being in vulnerable categories, or are still unable to do so for other reasons.
- 5.3. From the earliest stages of the pandemic, steps were taken to ensure that appropriate governance arrangements could continue during this period, and the facility for holding meetings remotely through a virtual/remote platform was rapidly introduced to ensure that meetings could continue to be held. Whilst some early meetings did not need to take place because there was no time-sensitive business to be conducted, the Council has been operating virtual decision-making arrangements as normal, for a number of meeting cycles. Nevertheless, it is acknowledged that circumstances may arise whereby a Member will have been unable to attend a meeting during a six-month period, for the reasons set out above, or due to some technical issue which has resulted in it not being possible for them to connect to a virtual meeting for a reason outside of their control (for example due to an issue with internet provision).
- 5.4. Regulations adopted by the Government made provision for Members' absence from meetings during this period within Wales, but this provision does not extend to England. It is therefore considered prudent to adopt a similar approach to protect the membership of Members of Cheshire East

Council. This will ensure that they do not cease to be Elected Members during the period of, or as a consequence of, the pandemic, solely by virtue of this provision of the 1972 Act, particularly as the Council would be unable to make arrangements for the holding of by-elections during this period. There would also be a significant cost of doing so.

- 5.5. In order to protect the membership of Cheshire East councillors following the introduction of Covid-related restrictions earlier this year, an urgent decision was taken in July, in accordance with paragraph 1.52 and Appendix 4 of the Council Procedure Rules, to approve the continuing absence of any elected member, arising from issues relating directly or indirectly to COVID-19, until 31st October 2020, thereby securing their continued membership of the Council until that day. As the period covered by the decision comes to an end on 31st October, Council is asked to approve a further extension to 28th February 2021. This corresponds broadly with the period identified recently by the Government as a period in which Covid restrictions are likely to remain in place in some form to get the country through the winter period.

6. Implications of the Recommendations

6.1. Legal Implications

- 6.1.1. The legal implications of the proposed decision are contained in the main body of the report.

6.2. Finance Implications

- 6.2.1. There are no negative financial implications arising from the recommendation in the report. Indeed, the proposal in the recommendation would avoid the need for elections and their associated costs.

6.3. Policy Implications

- 6.3.1. There are no policy implications arising from the recommendation.

6.4. Equality Implications

- 6.4.1. Those in vulnerable categories due to Covid-19 will be assisted by the proposed extension.

6.5. Human Resources Implications

- 6.5.1. There are no human resources implications arising from the recommendation.

6.6. Risk Management Implications

6.6.1. There are no risks associated with the recommendation. Indeed, failure to approve an extension could result in the need for elections with their associated costs; and could result in local communities being without representation during the intervening period.

6.7. Rural Communities Implications

6.7.1. There are no direct implications for rural communities arising from the recommendation.

6.8. Implications for Children & Young People/Cared for Children

6.8.1. There are no direct implications for children and young people arising from the recommendation.

6.9. Public Health Implications

6.9.1. The proposal in the recommendation would protect those members who are in vulnerable categories.

6.10. Climate Change Implications

6.10.1. There are no direct implications for climate change arising from this decision.

7. Ward Members Affected

7.1. This report is of direct relevance to all members of the Council.

8. Consultation & Engagement

8.1. There are no consultation arrangements associated with this report. Consultation had taken place with Group Leaders and the Mayor prior to the urgent decision being taken in July.

9. Access to Information

9.1. The following documents are relevant to this report:

- Local Government Act 1972 (published document).
- Record of an urgent Council decision taken in July in accordance with paragraph 1.52 and Appendix 4 of the Council Procedure Rules.

10. Contact Information

10.1. Any questions relating to this report should be directed to the following officer:

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