

SANDWELL METROPOLITAN BOROUGH COUNCIL

9 July 2020

Subject:	Six Month Attendance Rule
Director:	Director of Law and Government and Monitoring Officer – Surjit Tour
Contribution towards Vision 2030:	
Contact Officer(s):	Suky Suthi-Nagra Democratic Services Manager Suky_suthinagra@sandwell.gov.uk

DECISION RECOMMENDATIONS

That:

1. Consideration be given to waive the requirements of Section 85 of the Local Government Act 1972 and an extension of the six-month rule be approved for those member(s) determined at the meeting of the Council, with effect from 9 July 2020, until 1 November 2020.

1 PURPOSE OF THE REPORT

- 1.1 Section 85 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’. The legislation also requires that no elected member is disadvantaged by an inability of the Council to call meetings.
- 1.2 Approval is now sought to issue member dispensation(s) where a member is unable to, throughout a period of six consecutive months

from the date of their last attendance, to attend any meeting of the Authority on the grounds of ill-health or other extenuating circumstances.

2 BACKGROUND AND MAIN CONSIDERATIONS

- 2.1 Due to Covid-19 and the inability to call a meeting of the Council to consider any dispensations to the six-month attendance rule, on 18 March 2020, the Emergency Committee gave approval to issue a number of dispensations to the six-month non-attendance rule (see Minute No. 3/20).
- 2.2 In early March 2020 it was anticipated that an Annual Meeting of the Council would take place in May 2020. However, due to the restrictions enacted across the country, this was not possible. The Emergency Committee on 27 May 2020 gave approval to an interim programme of meetings for the 2020/21 Municipal Year up to the end of September 2020 but this did not include a date for annual council.
- 2.3 Following the introduction of The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 ("the Remote Committee Regulations") which came into force on 4th April 2020, the Council is now able to operate remote meetings which removes the requirements for members to physically attend a meeting in order to be counted toward attendance at the meeting. A number of the members who had dispensations in place have now been able to remotely attend a committee meeting, which negates the need for the dispensation to continue.
- 2.4 Whilst there are a small number of members who have not been appointed to committees or who are suffering from longer term health issues, remote attendance at a Full Council meeting will enable them to attend and participate in the meeting and not have to seek a dispensation to the "six month rule".
- 2.7 As the initial dispensations were approved by the Emergency Committee in March 2020, the Emergency Committee at their meeting on 24 June 2020 suspended the Council's Standing Order No. 29 to enable the decision of the Committee made on 18 March 2020 to be reviewed during the preceding six month period and to consider whether any further dispensations are required

- 1.8 In the event that those Members who do not currently hold seats on a committee (and their only opportunity to attend a meeting would be that of Full Council) are unable to attend this meeting, or there are requests for dispensations on the grounds of ill-health, Full Council will consider these requests for a dispensation to the “6 month rule”.

3 ALTERNATIVE OPTIONS

The Committee will need to consider whether members who have no opportunity to attend a committee meeting will require a dispensation to the six month attendance rule. Failure to consider and approve any necessary dispensations could result in an elected member losing their seat.

4 STRATEGIC RESOURCE IMPLICATIONS

- 4.1 There are no strategic resource implications arising from this report.

5 LEGAL AND GOVERNANCE CONSIDERATIONS

- 5.1 Section 85 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. The requirement can be waived and the time limit extended if any failure to attend was due to a reason approved by the Authority, in advance of the six month period expiring.
- 5.2 Should any councillor lose office through failure to attend for the six month period, the disqualification cannot be overcome by the councillor subsequently resuming attendance nor can retrospective approval of the Council be sought for an extension in time. If the Council decided not to approve an extension and, as they would be unable to attend another meeting, a casual vacancy would arise.
- 5.3 Existing legislation requires the Council not to disadvantage any member in respect of their statutory minimum attendance at meetings in a situation where meetings are cancelled. For this purpose, the Council must consider the grant or an extension of any dispensation to those members who due to illness or other extenuating circumstances have been and are unlikely to be able to attend meetings.

6 EQUALITY IMPACT ASSESSMENT

- 6.1 The recommendations contained within this report have not identified any issues which would discriminate against any disadvantaged or vulnerable persons.
- 6.2 The Council must follow its equality and diversity policies and procedures, thereby ensuring fairness and equal opportunity for all.

7 DATA PROTECTION IMPACT ASSESSMENT

- 7.1 A data protection impact assessment has not been undertaken.

8 CRIME AND DISORDER AND RISK ASSESSMENT

- 8.1 A crime and disorder and risk assessment has not been undertaken.

9 SUSTAINABILITY OF PROPOSALS

- 9.1 The proposals are being considered to ensure that no councillor is disadvantaged during this period. As all Council Members are able to access meetings using an electronic solution, they now have the opportunity to attend a meeting and be counted as part of their attendance.

10 HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE)

- 10.1 The proposals will ensure that the Council is still able to make decisions and no members are disadvantaged due to non-attendance at meetings.

11 IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND

- 11.1 None.

12 CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

- 12.1 It has become necessary to put in place mechanisms to ensure that no members are disadvantaged due to non-attendance at meetings, either due to illness or other extenuated circumstances.