

Croydon Council

For General Release

REPORT TO:	COUNCIL 6 JULY 2020
SUBJECT:	RESOLUTION TO EXTEND 6 MONTH RULE SECTION 85(1) LOCAL GOVERNMENT ACT 1972
LEAD OFFICER:	JACQUELINE HARRIS BAKER COUNCIL SOLICITOR & MONITORING OFFICER
CABINET MEMBER:	COUNCILLOR SIMON HALL CABINET MEMBER FOR FINANCE AND RESOURCES
CORPORATE PRIORITY/POLICY CONTEXT/AMBITIOUS FOR CROYDON: The Council is required under the Local Government Act 1972 to consider any request received for an extension of the six month councillor attendance provisions.	
FINANCIAL IMPACT There is no direct financial impact arising from this report. The Council is required to consider the formal request for an extension of time.	

1. RECOMMENDATIONS

Council is recommended to:

- 1.1. Approve all Members' absence from meetings pursuant to section 85(1) of the Local Government Act 1972 on the grounds of the Covid-19 pandemic;
- 1.2. Agree an extension of time for all Members for a period expiring on 31 December 2020.

2. EXECUTIVE SUMMARY

- 2.1 The purpose of the report is to seek authorisation of the Council to the absence of all Members from meetings of the authority from the date of this meeting for a period of 5 months in order that any Members not being able or having the opportunity to attend a qualifying meeting prior to and during the period of the Pandemic are not at risk of disqualification.

3. DETAIL OF YOUR REPORT

- 3.1 As a result of the Coronavirus Crisis, the Council was forced to cancel a number of scheduled meetings to comply with the social distancing requirements and prevent the spread of the virus which has restricted the opportunity for members to attend scheduled meetings.
- 3.2 On 25 March 2020 the Coronavirus Act 2020 received royal assent and section 78 introduced regulation making powers with regard to meetings and proceedings of local authorities. The Secretary of State has now issued regulations - the Local Authorities (Coronavirus) (Flexibility of Local Authority Meetings) (England) Regulations 2020 ('the Regulations') which introduces flexibility to hold meetings remotely.
- 3.3 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 last attendance to attend any meeting of the authority, he 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*".

For the purposes of the legislation, "*meeting of the authority*" includes Committees and Sub-Committees, joint committees, joint boards or other bodies where the functions of the Authority are discharged or that were appointed to advise the Authority on any matter relating to the discharge of their functions. There is therefore a risk that Members may fall foul of these provisions due to the limitation on holding meetings or as a result of being unable to attend such meetings that are held due to sickness arising from the virus itself.

- 3.4 It is clear from the Regulations that attendance at a qualifying meeting of the authority, as defined above, via remote access will count as qualifying attendance for the purposes of the 6 months rule. To satisfy the requirements within the Regulations a Member but be able to 'hear' and 'be heard' and where possible 'see' and 'be seen' by other Members at the meeting and members of the public including those attending to exercise a right to speak. However, meetings are at present only being scheduled where there is urgent essential business to transact leading to a reduced opportunity for attendance at meetings even in a remote setting for some Members.
- 3.5 The Council can only consider approval of any reasons for non-attendance before the end of the relevant six month period. This cannot be approved retrospectively.
- 3.6 In the circumstances given that not all Members may have the opportunity to attend a qualifying meeting during the period of the Pandemic due to technical and other limitations this could put some Members at risk of inadvertent disqualification, although it is not possible to accurately predict how many Members would be affected. In order to avoid this eventuality the Monitoring Officer advises that in the circumstances it would be reasonable for full Council to grant a general dispensation in respect of the non-attendance of Members at meetings. It is therefore requested that Council consider this matter and both

agree the reason for non-attendance and an extension of the six month rule to afford all Members an opportunity to attend meetings.

- 3.7 Any extension agreed by Council would not prevent members from returning to meetings at any time sooner.

4. CONSULTATION

The Monitoring Officer has consulted all Members regarding this matter.

5. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

- 5.1 There is no direct financial impact arising from this report.

(Approved by: Ian Geary Head of Finance, Resources & Accountancy on behalf of the Director of Finance, Investment and Risk (S151 Officer)

6. LEGAL CONSIDERATIONS

- 6.1 The Head of Litigation and Corporate Law comments on behalf of the Director of Law and Governance that section 85(1) of the Local Government Act 1972 enables a Local Authority to approve the reasons(s) for non-attendance of a member at any meeting of the authority through a period of six consecutive months provided that approval is given by the authority before the expiry of the six month period.
- 6.2 Approval of a reason for a Member's non-attendance is a non-executive function and reserved for full council.
- 6.3 Once any Member loses office, through failure to attend for the six month period the disqualification cannot be overcome by the Member subsequently resuming attendance nor can retrospective approval of the Council be sought for an extension of time.

Approved by: Sandra Herbert, Head of Litigation and Corporate Law on behalf of the Director of Law and Governance & Deputy Monitoring Officer.

7. HUMAN RESOURCES IMPACT

- 7.1 There are no HR implications arising from the report for Croydon Council Employees or staff.

Approved by: Jennifer Sankar, Head of HR Place Department on behalf of the Director of Human Resources

8. EQUALITIES IMPACT

- 8.1 The Council must in the exercise of its functions, have due regard to the need to eliminate unlawful discrimination, harassment and victimisation and to advance equality of opportunity and foster good relations between those who

share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010).

8.2 There are no anticipated equality impacts.

(Approved by: Yvonne Okiyo Equalities Manager.

9. ENVIRONMENTAL IMPACT

9.1 There are no anticipated environmental impacts.

10. CRIME AND DISORDER REDUCTION IMPACT

10.1 There are no anticipated crime and disorder reduction impacts.

11. OTHER OPTIONS CONSIDERED

11.1 Once a request has been received to extend a period of office for a Member beyond the six month period of non-attendance the Council is required to consider the request. The Council could resolve not to approve the reason for absence and waiver of the requirements of the 1972 Act. Refusal to agree the recommendation would result in the Member being disqualified from office and a casual vacancy being declared.

CONTACT OFFICER: Jacqueline Harris-Baker, Council Solicitor and Monitoring Officer. (ext. 62328)

BACKGROUND DOCUMENTS: None