

Report for: Leader's Decision

Title: Attendance at meetings of an authority by a Member

Report authorised by: Zina Etheridge, Chief Executive

Lead Officer: Ayshe Simsek, Acting Democratic Services & Scrutiny Manager
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Ward(s) affected: N/A

**Report for Key/
Non Key Decision:** N/A

1. Describe the issue under consideration

- 1.1 To seek approval of Councillor Hinchcliffe's ill health as a reason for failing to attend Council meetings. He would otherwise automatically cease to be a member after 6 months, i.e. after 9th June 2020. This report proposes to extend that period for 3 months, to 8th September 2020.
- 1.2 On 19th March 2020, in accordance with the Council's Constitution, Full Council approved the reason. However, although it is the long-established practice of most local authorities to treat this as a non-executive function, it now appears that it is a decision for the executive. Therefore, a 'belts and braces' approach is considered necessary to avoid any difficulties on this issue and so the approval of the executive is also being sought.

2. Cabinet Member Introduction

N/A

3. Recommendations

That the Leader in the exercise of executive functions

- 3.1 Note that Councillor Justin Hinchcliffe has been unable to attend Council meetings due to ill health, and the last meeting he attended was 10th December 2019.
- 3.2 Approve Councillor Hinchcliffe's continued ill health as a reason for not attending Council meetings, such that:
 - a. He will continue to be a Member of this Council until 8th September 2020 even if he does not attend a meeting of the authority (as defined in section 85(2) Local Government Act 1972) due to ill health; and

- b. If he does not attend a meeting of the authority (as defined in section 85(2) Local Government Act 1972 by 8th September 2020, he will cease to be a member after that date.

4. Reasons for decision

- 4.1 The Leader is requested to approve the above recommendations to allow Councillor Hinchcliffe the opportunity to recover from a period of ill health and retain his membership on the Council.
- 4.2 If the reason for Councillor Hinchcliffe's failure to attend meetings is not approved before the expiry of 6 months from his last attendance (i.e. by 9th June 2020), he will automatically cease to be a member of the Council, as a result of section 85(1) Local Government Act 1972.
- 4.3 The extension of 3 months is thought to be appropriate given Councillor Hinchcliffe's ill health.
- 4.4 Due to the COVID-19 pandemic, there are currently no scheduled meetings for Councillor Hinchcliffe to attend in person. However, there are arrangements being made for virtual meetings. If his condition improves, he may be able to attend a virtual meeting where his attendance will be recorded and meet the attendance requirements.

5. Alternative options considered

- 5.1 The Leader could do nothing. However, Councillor Hinchcliffe continues to be unable to attend meetings and, if his extension is not approved, he will automatically cease to be a member of the Council after 6 months.

6. Background information

- 6.1 The Acting Democratic Services & Scrutiny Manager was notified that due to ill health Councillor Justin Hinchcliffe in his role as a Councillor had not been able to attend any meetings of the authority since 10th of December 2019. The Chief Executive and Monitoring Officer were subsequently notified. He has been in regular contact with the Party Whip, Councillor Cawley-Harrison, since this time.
- 6.2 The Constitution at Part 6 Member's Allowance Scheme Paragraph 11.19 provides that a Member who is sick will continue to receive the basic allowance as long as they remain a Councillor. They will also continue to receive any Special Responsibility Allowance (SRA) for a six-month period. Extension of this period of leave will require prior 2 months' written notice to be given to the Political Leader of the respective political group. If the extended leave is agreed by that Political Leader, a report will be compiled to seek approval from Full Council, before the point of the 6 months' leave expiry, for the extension of this leave.
- 6.3 The reason for Councillor Hinchcliffe's absence was approved as above by Full Council on the 19th March 2020, in accordance with the Council's Constitution. However, although it is the long-established practice of most local authorities to treat this as a non-executive function, it now appears that it is a decision for the

executive. Therefore, a 'belts and braces' approach is considered necessary to avoid any difficulties on this issue and the approval of the executive is also being sought. The Leader and a majority of Cabinet were present at the Full Council meeting on the 19th of March which took the decision to approve the extension. There has not since been any change in the circumstances of Councillor Hinchcliffe.

7. Statutory Officers comments

Finance

- 7.1 Councillor Hinchcliffe would continue to receive his Member Allowance payment, which is provided for in the current budget and would have no further budgetary impact.

Legal

- 7.2 Section 85 Local Government Act 1972 (*Vacation of office by failure to attend meetings*) provides that a member of a local authority will cease to be a member if he fails to attend any meeting of the authority throughout a period of six consecutive months from his last attendance, unless the failure is due to a reason approved by the authority before the expiry of that period.
- 7.3 Section 85(2) Local Government Act 1972 defines what is meant by a meeting of the authority. This includes Full Council and all committees and subcommittees.
- 7.4 Under section 9D Local Government Act 2000 all functions of a local authority are executive functions unless the contrary is specified in The Local Authorities (Functions and Responsibilities) (England) Regulations 2000. Those regulations do not refer to section 85 Local Government Act 1972 and so this report treats it as an executive function.

8. Use of Appendices

N/A

9. Local Government (Access to Information) Act 1985

- 9.1 The following papers have been used in the preparation of this report:
- Report to Full Council on 19th March 2020
 - The Council's Constitution