

Report to	-	Council
Date	-	15 May 2017
Report of the	-	Executive Director of Business Operations
Subject	-	Waiver of six month councillor attendance rule (section 85 Local Government Act 1972) – Councillor J J Carroll

Recommendation: It be **RESOLVED:** That:

- 1) Council considers the request to extend Councillor J J Carroll's period of office beyond the six month period of non-attendance provided for within Section 85 (1) of the Local Government Act 1972 on the grounds of ill-health and his ongoing recovery; and
 - 2) If minded to approve the request the extension of time be for a further 6 month period, to expire on Tuesday 28 November 2017.
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Introduction

1. Section 85 (1) of the Local Government Act 1972 requires a member of a Local Authority to attend at least one meeting of that Authority within a six month consecutive period, in order to avoid being disqualified as a Councillor. This 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.
2. Unfortunately, due to a serious illness, extended hospital admission and ongoing recovery, Councillor J J Carroll has not been able to attend any Council or Committee meetings since the Overview and Scrutiny Committee on 28 November 2016. A formal request has therefore been made for an extension to the six month rule to be approved in his respect.

Background

3. Section 85 (1) 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.
4. Councillor J J Carroll has not been able to attend any Council or Committee meetings since the Overview and Scrutiny Committee meeting held on 28 November 2016, due to a serious illness and extended hospital admission. Whilst now in recovery, the Monitoring Officer has received a request for the

Council to consider approving an extension to the usual six month attendance rule enabling him to remain in office whilst completing his recovery and until able to resume normal duties.

5. Council can only consider approval of any reasons for non-attendance before the end of the relevant six month period, which will be Sunday 28 May 2017. Councillor Carroll has confirmed that he will not be able to attend the next Council meeting scheduled for Monday 15 May 2017 and so a report has been submitted to approve an extension of the usual six month rule.
6. Councillor J J Carroll was re-elected to the Council in May 2015 and represents Sidley Ward. In addition to full Council he also currently serves as a member of the Overview and Scrutiny Committee.

Legal Implications

7. Section 85 (1) of the Local Government Act 1972 enables a Local Authority to approve the reason(s) for non-attendance of a Member at any meeting of the Authority throughout a period of six consecutive months, provided that approval is given by the Authority before the expiry of the six month period.
8. Given that Councillor J J Carroll is still in the process of recovering from his illness, it is unlikely that he will be able to attend any qualifying meetings prior to his six month period expiring. This is also the final Council meeting at which approval could be sought for an extension of the time limit. If approval to any extension is not therefore agreed at this meeting Councillor J J Carroll would, under Section 85 (1) of the Local Government Act 1972 be disqualified after 28 May from office as a councillor.
9. Once any councillor loses 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.
10. Should the Council not agree to this request, Councillor J J Carroll will be disqualified from office as a councillor; this would lead to a subsequent call for a by-election.

Conclusion

11. Council is asked to consider the request to extend Councillor J J Carroll's period of office in accordance with relevant legislation.

Dr Anthony Leonard
Executive Director of Business Operations