

Report to	-	Council
Date	-	26 February 2018
Report of the	-	Executive Director of Business Operations
Subject	-	Waiver of six month councillor attendance rule (section 85 Local Government Act 1972) – Councillor P R Douart

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

- 1) Council considers the request to extend Councillor P R Douart'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 Friday 16 November 2018.
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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.

Background

2. 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.
3. Councillor P R Douart has not been able to attend any council or committee meetings since the Planning Committee meeting held on 16 November 2017, due to a serious illness and 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.
4. Council can only consider approval of any reasons for non-attendance before the end of the relevant six month period, which will be Wednesday 16 May

2018. Councillor Douart has confirmed that he will not be able to attend the next Council meeting scheduled for Monday 26 February 2018 and so a report has been submitted to approve an extension of the usual six month rule.

5. Councillor Douart was re-elected to the Council in May 2015 and represents Sackville Ward. In addition to full Council he also currently serves as a member of the Planning Committee and Overview and Scrutiny Committee.

Legal Implications

6. 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.
7. Given that Councillor P R Douart 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 Douart would, under section 85 (1) of the Local Government Act 1972, be disqualified after 16 May from office as a councillor. If approved then it is recommended that this is for a further six month period, to expire on Friday 16 November 2018.
8. 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.
9. Should the Council not agree to this request, Councillor Douart will be disqualified from office as a councillor; this could lead to a subsequent call for a by-election.

Conclusion

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

Dr Anthony Leonard
Executive Director of Business Operations