

Meeting:	Council
Meeting date:	Friday 13 October 2017
Title of report:	Council membership and committee appointment
Report by:	Monitoring Officer

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose and summary

1. To appoint the Chairman of the Health and Wellbeing Board
2. To consider a request for a further six month leave of absence to enable Councillor WC Skelton to resume his duties.

Recommendation(s)

That:

- (a) **Councillor JG Lester be appointed as the chairman of the Health and Wellbeing Board; and**
- (b) **an extended leave of absence from meetings, pursuant to Section 85 (1) of the Local Government Act 1972, for Councillor WC Skelton, to expire on 12 March 2018 be approved.**

Alternative options

3. The terms of reference of the Health and Wellbeing Board, state that the chair of the

board should be held by either: the cabinet member, health and wellbeing; or the cabinet member young people and children's wellbeing.

4. To not extend the period of absence for Councillor Skelton would result in disqualification from office from 26 October 2017.
5. It is open to Council to authorise a longer, or a shorter period of absence. The period to 12 March 2018 is recommended because it is a reasonable period within which the councillor may return to duties and, should it be necessary, enables Council to consider the matter further at its meeting scheduled on 9 March 2018.

Key considerations

Appointment of chairman of the Health and Wellbeing Board

6. On 19 May 2017 Council considered appointments to committees and elected chairmen and vice-chairmen to those committees. The position of chairman of the Health and Wellbeing Board has been vacated with effect from 1 August 2017 and a replacement appointment is sought.
7. Under the council's constitution this appointment is limited to the cabinet members for health and wellbeing, or young people and children's wellbeing

Council Membership

8. Section 85 (1) of the Local Government Act 1972 requires a member of a council to attend at least one meeting of that council within a six month consecutive period, in order to avoid being disqualified as a councillor.
9. Attendance can be at any committee or sub-committee, or any joint committee, joint board or other body where the functions of the council are discharged or who were appointed to advise the council on any matter relating to the discharge of their functions.
10. Councillor Skelton last attended a meeting of the council on 26 April 2017 and has since been absent due to severe illness. He was elected to the Council in 2015 and represents Castle ward. In addition to full Council he also serves as a member of the planning and regulatory committee.
11. It is recommended that an extended period of leave of absence be approved which would enable him to remain in office until he is able to resume normal duties.
12. If a six month leave of absence is approved, Councillor Skelton would be disqualified from being a councillor due to non-attendance if he failed to attend a meeting by 12 March 2018 unless another leave of absence was approved.
13. Attendance at any meeting as described in paragraph 6 above during this period would "reset the clock" and the statutory six month period under the Act would apply again.
14. If council does not approve this extended leave of absence, Councillor Skelton will be disqualified from office on 26 October 2017 by operation of law. Once any councillor loses office, through failure to attend for the statutory 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.

Community impact

15. Councillors are directly elected to represent the interests of their ward as well as the whole county. To ensure that the residents of Castle ward retain democratic representation during Councillor Skelton's leave of absence from meetings, a neighbouring ward member, Councillor R Phillips, is providing ward support to Councillor Skelton.

Equality duty

16. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
17. Where a decision is likely to result in detrimental impact on any group with a protected characteristic it must be justified objectively. This means that attempts to mitigate the harm need to be explored. If the harm cannot be avoided, the decision maker must balance this detrimental impact against the strength of legitimate public need to pursue the service change. In consideration of a six month leave of absence for sickness due regard should be paid to a reasonable adjustment to support the councillor to resume his duties.

Resource implications

18. There is no special responsibility allowance payable for the chairman of the health and wellbeing board therefore the decision to appoint a chairman has no resource implications beyond those allowances currently paid to the cabinet members eligible for the post.
19. If a six month period of absence is approved, Councillor Skelton will continue to receive an allowance as a member of the council.

Legal implications

20. The constitution reserves to council the function of appointing chairmen of committees.
21. 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.”

Risk management

22. Although failure to appoint to chairmanships carries minimal risk of challenge it is important to ensure that appointments to the chairmanship of the health and wellbeing board are made to allow the board to carry out its functions effectively. The recommendations in this report mitigate the risk involved in the failure to appoint.
23. There is a risk of adverse public perception to the extension of the six month period of non-attendance. To manage this risk the proposed extension is limited to a six month period and contact will be maintained with Councillor Skelton to assist him to resume his duties. Reasonable adjustments will be made to facilitate Councillor Skelton’s return which will also allow the council to meet its obligations under the Equality Act 2010. The extension of a period of absence for a councillor is a practice which local authorities occasionally undertake in order to assist a councillor suffering ill health to resume their duties.

Consultees

24. None

Appendices

None

Background papers

None identified