

Title of report: Council Membership - dispensation

Meeting: Extraordinary Full Council

Meeting date: Friday 13 May 2022

Report by: Director of Law and Governance

Classification

Open

Decision type

This is not an executive decision

Wards affected

Castle;

Purpose

For Council to consider granting a dispensation, via the council's Monitoring Officer, pursuant to section 85 of the Local Government Act 1972, to Councillor Graham Jones whose compassionate leave of absence will exceed six months, on 17 May 2022.

Recommendation(s)

That:

- a) **Council approve a period of absence from meetings by Councillor Graham Jones pursuant to section 85 of the Local Government Act, and**
- b) **The monitoring officer is authorised to extend Councillor Graham Jones current period of absence, by one month, to 18 June, 2022.**

Alternative options

1. To not grant Councillor Jones a one month extension. This is not recommended. Councillor Jones has taken a period of compassionate leave following the passing of his wife and his late

mother. Despite these significant life events, Councillor Jones remains committed to serving his community and his constituents in the Castle ward as their local member.

2. It is open to Council to authorise a longer, or a shorter period of absence. The period to 18 June, 2022 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, if necessary, at its meeting scheduled on 20 May, 2022.

Key considerations

3. On 17 November 2021, Councillor Graham Jones was granted by the Monitoring officer at that time a period of compassionate leave following the passing of his wife. During the run up to his wife's passing Councillor Jones had been a principal carer, alongside balancing his work commitments and his council duties.
4. Approximately 18 months prior to this Cllr Jones also lost his mother.
5. Both of Cllr Jones's losses occurred during and with COVID 19 lockdown being in full force. This meant that close friends and family, some of whom live overseas, were unable to physically extend their condolences, remembrance and support to Councillor Jones and his immediate family.
6. Following these significant life events, Cllr Jones sought and was granted compassionate leave of absence. He has spent much of this time with his immediate family - recently travelling to Canada to see his brother.
7. Under the council's constitutional provisions (Sections: 2.2.20 to 2.2.21) a councillor will cease being a councillor if they fail to attend meetings of the council for a period of six months without prior approval of the council meeting. Councillor Jones's period of compassionate leave ends on 16 May 2022. He is unable to physically attend a council committee meeting prior to his six month non-attendance deadline. This will mean an automatic disqualification from 17 May onwards.
8. Prior to his compassionate leave being granted on 17 May 2022, Councillor Jones was an active councillor. He has a good attendance record at both full Council and through membership of the Planning and Regulatory Committee. Since May 2019, he has attended 36 meetings out of 50. The 14 meetings Councillor Jones has issued apologies for came in the preceding months to his wife's sad death.
9. In discussions with the True Independent's group leader and democratic services manager, Councillor Jones has made his position clear. He wishes to stay on as a local councillor for his remaining term of office. He has noted his continuing commitment and sense of duty to his community in representing their priorities as a local councillor.
10. To enable Councillor Jones to continue in his role as a councillor beyond 17 May 2022, council must take a decision as to whether it will give approval for the Monitoring Officer to provide a dispensation from automatic disqualification office.

Community impact

11. 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 Jones's leave of absence, one of his group members, Councillor Mike Jones, is providing ward support on behalf of Councillor Graham Jones.

Environmental Impact

12. This decision has no direct consequences to delivering the council's [environmental policy commitments](#). This is a decision on back office functions that will have minimal environmental impacts.

Equality duty

13. 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.
14. In consideration of a one month extension to Councillor Graham Jones's leave of absence on compassionate grounds, regard should be paid to a reasonable adjustment to support the councillor to resume his duties.

Resource implications

15. There are no new resource implications from this decision. If an extension of Councillor Jones's leave of absence is agreed, he will continue to receive his basic allowance
16. If Council were not agree to a dispensation being provided this would lead to an instant disqualification, in pursuant of Section 85 (1) of the Local Government Act 1972. This in turn would trigger a local by-election which has an indicative cost of around £5 to 6k

Legal implications

17. Section 85(i) of the Local Government Act 1972 states "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 the Council.
18. Attendance in an official capacity at a meeting of a committee or sub-committee of the council or at any meeting of a joint committee or other such body discharging functions of the council or at any meeting as a representative of the council is deemed to be a 'meeting of the council'.
19. If after six months from the date of a member's last attendance to attend any meeting, the council has not approved the absence then the member as a result of the operation of law ceases to be a member of the council from that date. The six months runs from the date of the member's last attendance and approval must be given within that six month period.

20. Once approval had been given and it can be for no more than 6 months prospectively or retrospectively or a combination of both – this statutory six months period begins to run from the end of the period for which approval has been given.
21. If Councillor Jones is likely to remain absent from the council beyond 16 May 2022 then, the need for dispensation arises before 16 May 2022. If Councillor Jones fails to attend any meeting of the council after 17 May 2022 he would be disqualified as a Councillor under the statutory provision (Section 85(1) of the Local Government Act 1972) unless the council passes a dispensation resolution before that date.

Risk management

Risk / opportunity	Mitigation
There is a risk of adverse public perception to the extension of a one month period of non-attendance.	<p>The report to Council sets out clear and justifiable reasons as to why a short extension is being sought.</p> <p>The council has a duty to assist officers and councillors and offer a reasonable adjustment to ensure they can resume their duties following absence.</p>

Consultees

22. Group Leaders were consulted ahead of the Monitoring Officer seeking their support for approval from the Chief Executive to hold an extraordinary council meeting for council to consider. While not a formal decision making forum, Group Leaders signalled their support for the extraordinary council meeting to take place.

Appendices

None

Background papers

None

Report Reviewers Used for appraising this report:

Please note this section must be completed before the report can be published		
Governance	Matthew Evans	Date 03/05/2022
Finance	Louise Devlin	Date 04/05/2022
Legal	Kate Charlton	Date 04/05/2022
Communications	Luenne Featherstone	Date 04/05/2022
Equality Duty	Harriett Yellin	Date 05/05/2022

Procurement	Lee Robertson	Date 03/05/2022
Risk	Kevin Lloyd	Date 05/05/2022

Approved by	Claire Porter	Date 05/05/2022
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Please include a glossary of terms, abbreviations and acronyms used in this report.