

ASSEMBLY

1 March 2023

The Chair will be asked to decide if this report can be considered at the meeting under the provisions of Section 100B(4)(b) of the Local Government Act 1972 as a matter of urgency to enable the Assembly to take a decision on whether there is a reason to support a resolution not to apply the vacation of a Councillor's office rule due to non-attendance of meetings for a period of six months.

Title: Resolution to Extend Six Month Attendance Rule for Councillor Edna Fergus – Section 85 of Local Government Act 1972	
Report of the Acting Chief Executive	
Open Report	For Decision
Wards Affected:	Key Decision: No
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Accountable Director: Alison Stuart, Chief Legal Officer and Monitoring Officer	
Accountable Strategic Director: Fiona Taylor, Acting Chief Executive	
Summary	
<p>Section 85 of the Local Government Act 1972 provides that if a Councillor fails throughout a period of six consecutive calendar months from the date of their last attendance to attend any qualifying meeting of the Authority, they cease to be a Member of the Council unless the failure was due to some reason approved by the Assembly before the expiration of the period.</p> <p>Councillor Edna Fergus has not attended a meeting which qualifies towards her attendance record since the 28 September 2022 Assembly meeting due to continuing ill health. The six-month expiry period is, therefore, 28 March 2023 and although there are several committee meetings that Councillor Fergus could attend before 28 March, this is the last meeting of the Assembly at which consideration of dispensation can be given.</p> <p>The matter is, therefore, being brought to this meeting in order for the Assembly to consider whether there is a reason to approve Councillor Fergus's non-attendance at meetings.</p> <p>Should the Assembly approve the reasons for absence, the six-month attendance requirement recommences from the point that the previous six-month period expires. Therefore, Councillor Edna Fergus would continue to be a councillor until at least 28 September 2023.</p>	

Recommendation(s)

The Assembly is asked to consider whether there is reason to approve Councillor Edna Fergus's non-attendance at meetings and, if appropriate, agree that she be deemed to be exempted from the requirements of Section 85(1) of the Local Government Act 1972 and, accordingly, shall continue to be a Member of the Council.

Reason(s)

To accord with legislative requirements.

1. Introduction and Background

- 1.1 Section 85 of the Local Government Act 1972 provides that if a Councillor fails throughout a period of six consecutive calendar months from the date of their last attendance to attend any meeting of the Authority ('six-month rule'), they cease to be a Member of the Council unless the failure was due to some reason approved by the Assembly before the expiration of the period.
- 1.2 For qualification purposes, attendance can be at any committee, sub-committee or other body discharging functions of the Council or at any meeting to which the Councillor has been formally appointed as a representative of the Council.
- 1.3 The decision whether or not to grant relief from the six-month rule in the case of a councillor failing to attend meetings of the Council is at the Assembly's discretion.

2. Proposal and Issues

- 2.1 Councillor Fergus was re-elected as a councillor at the Local Elections on 5 May 2022 and formally commenced her new term of office on 9 May 2022.
- 2.2 Her last attendance at a meeting was the Assembly on 28 September 2022 and she has been unable to attend any subsequent qualifying meetings due to continuing ill health. Councillor Fergus is a member of the Planning Committee, which is due to hold qualifying meetings before the expiry of the six-month period. However, this is the last meeting of the Assembly at which dispensation can be considered.
- 2.3 Should the Assembly approve the reasons for absence, the six-month attendance requirement recommences from the point that the previous six-month period expires. Therefore, Councillor Fergus would continue to be a councillor until at least 28 September 2023.

3. Options Appraisal

- 3.1 The Assembly must consider whether there are reason(s) to grant relief from the application of the Section 85 six-month rule. It is entirely at the Assembly's discretion whether or not to grant an exemption from the Section 85 requirements and each case should be considered on its individual merits.

4. Consultation

- 4.1 Relevant officers and the Leader of the Council have been consulted on the content of this report.

5. Financial Implications

Implications completed by: Katherine Heffernan, Head of Service Finance

- 5.1 In the event of a councillor ceasing to be a Member of the Council, the basic allowance of £12,014 per annum will no longer be payable. The Council would bear the costs of conducting a by-election if one was subsequently requested. However, these are relatively small amounts of money in terms of the Council's budget and can be met from existing resources.

6. Legal Implications

Implications completed by: Paul Feild, Senior Governance Lawyer

- 6.1 The requirement to attend qualifying meetings and the consequence of non-attendance is set out in Section 85 of the Local Government Act 1972. Failure to attend a qualifying meeting within the stipulated six-month period means that the individual ceases to be a Member of the Council immediately, and that their office as Councillor is vacated, unless that absence is for a reason approved by the Assembly.
- 6.2 There is no specific provision within Section 85 of the Act regarding any extension period that may be granted in the event of non-attendance. Therefore, if the reason for non-attendance is approved the six-month attendance requirement recommences from the point that the previous six-month period expires.

Public Background Papers Used in the Preparation of the Report: None

List of appendices: None