

# **Councillor approval under s85 (1) of the Local Government Act 1972**

Report of the Corporate Portfolio Holder

## **Recommended:**

**That Council approves the waiver of the six month attendance rule provided for at section 85 (1) of the Local Government Act 1972 to Councillor Cross for the reason set out in the report for a period of six months to the 11 October 2021.**

### **SUMMARY:**

- To consider approving to Councillor Cross's reason for non-attendance under Section 85 of the Local Government Act 1972 to allow him to continue in his role as a Borough Councillor.

## **1 Introduction**

- 1.1 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 his/her last attendance to attend any meeting of the authority, he/she 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 authority".

## **2 Background**

- 1.2 Due to illness Councillor Cross has not been able to attend Council or Committee meetings since his last attendance at a Council meeting on 11 November 2020.
- 1.3 In accordance with the legislation, on 12 May 2021 Councillor Cross would cease to be a Member of Test Valley Borough Council if Council does not approve a reason for his non-attendance.

## **3 Options**

- 3.1 Option 1 – To approve a reason for Cllr Cross's non-attendance under Section 85 (2). It is proposed that the approval is not open-ended, hence the recommendation that it continue for a period of six months. The matter can be considered further if matters remain unchanged at that time.
- 3.2 Option 2 – To not approve a reason for non-attendance.

## **4 Option Appraisal**

### **4.1 Option 1**

4.2 Councillor Cross has not been able to attend Council or Committee meetings due to ill health.

4.3 Section 85 of the Local Government Act 1972 allows Council to approve a reason for a Councillor's non-attendance, thereby dispensing with the automatic consequence of ceasing to be a Councillor after six consecutive month's non-attendance.

4.4 It is considered that Councillor Cross' reason for being unable to attend a meeting is entirely valid and proper.

4.5 Option 1 is therefore the recommended option, allowing Councillor Cross time to recover from illness whilst remaining as a Borough Councillor and ward Councillor for North Baddesley.

### **4.6 Option 2**

4.7 Council does not have to approve a dispensation for Councillor Cross. If this was to be the case then he would cease to be a member of the authority on 12 May 2021 which would result in a vacancy on the Council's membership.

## **5 Risk Management**

5.1 No risks have been identified.

## **6 Resource Implications**

6.1 There are no resource implications.

## **7 Legal Implications**

7.1 Section 85 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 his/her last attendance to attend any meeting of the authority, he/she 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 authority.

7.2 A Council decision is required to approve a reason for Councillor Cross's non-attendance. If this is not approved by Council then Councillor Cross will cease to be a Member of the Council and a By-election will need to be held in order to fill the vacancy.

## **8 Equality Issues**

8.1 No equalities issues have been identified.

## 9 Other Issues

- 9.1 Community Safety - None
- 9.2 Environmental Health Issues - None
- 9.3 Sustainability and Addressing a Changing Climate - None
- 9.4 Property Issues - None
- 9.5 Wards/Communities Affected – North Baddesley

## 10 Conclusion and reasons for recommendation

- 10.1 Councillor Cross has been unable to attend meetings of Test Valley Borough Council for a period of 6 months due to illness. In accordance with Section 85 of the Local Government Act 1972 it is proposed that Council approves the reason for his non-attendance at meetings for a six month period to the 11 October 2021.

<u>Background Papers (Local Government Act 1972 Section 100D)</u> None.			
<u>Confidentiality</u> It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.			
No of Annexes:	0	File Ref:	N/A
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Report to:	Council	Date:	7 April 2021