

# Declaration of Vacancy of Office

Report of the Head of Legal and Democratic Services

## Recommended:

1. That Kevin Farrer has ceased to be an elected Member of Test Valley Borough Council, be noted
2. That the office held by Kevin Farrer as a Councillor for Andover - St Mary's Ward, Andover, be declared as vacant.

## SUMMARY:

- Kevin Farrer has ceased to be a Councillor by virtue of his failure to attend a Council meeting for six months.
- It is recommended that General Purposes Committee declares the office formerly held by Kevin Farrer as vacant in order that the vacancy may be publicised and filled.

## 1 Introduction

- 1.1 Kevin Farrer has ceased to be a Councillor by virtue of section 85 of the Local Government Act 1972, having not attended a Council meeting for more than six months.
- 1.2 In order that public notice of the vacancy can be given, the Council must first formally make a declaration of vacancy.
- 1.3 On 26 February 2020 Council delegated authority to General Purposes Committee to declare a vacancy in circumstances that require it.
- 1.4 A declaration is now required in order that the vacancy can be publicised and filled.

## 2 Background

- 2.1 Kevin Farrer has not attended a meeting of the Council for more than six months.
- 2.2 Under section 85 of the Local Government Act 1972, if a Councillor fails for a period of six consecutive months to attend a meeting of the Council then they cease to be a Member of the authority unless the failure was due to some reason approved by the Council before the expiry of that period.
- 2.3 The Local Government Act 1972 requires an authority to declare a vacancy in such circumstances before notice of the vacancy can be publicised.

- 2.4 At the meeting of full Council on 26 February 2020, Council delegated authority to General Purposes Committee to declare vacancies of office in these circumstances.
- 2.5 Kevin Farrer last attended a meeting of the Council on 4 of September 2019 when he attended a meeting of Full Council. He therefore had until 5 March 2020 to attend a further meeting to avoid the effect of section 85 of the Local Government Act 1972.
- 2.6 A thorough check of attendance records has been undertaken. There is no record of Kevin Farrer attending any meeting of the Council, a Committee or Sub-Committee between 5 September 2019 and 5 March 2020.
- 2.7 Within that period the Council has not approved any reason for Mr Farrer's failure to attend and therefore Mr Farrer has ceased to be a Councillor by virtue of section 85 of the Local Government Act 1972.
- 2.8 It is therefore recommended that General Purposes Committee declares as vacant the office formerly held by Kevin Farrer as a Councillor for Andover - St Mary's Ward, Andover.

### **3 Options**

- 3.1 The options are either to declare the vacancy or not.

### **4 Option Appraisal**

- 4.1 If the vacancy is not declared then notice of vacancy cannot be publicised and a by-election cannot be held in order to fill the vacancy. It would clearly be undesirable for the residents of the Borough and the Council itself to hold a vacancy indefinitely. Therefore the recommended option is that the declaration of vacancy is made, enabling publication of the notice of vacancy and arrangements for filling the vacancy to be put in place at the earliest opportunity.

### **5 Risk Management**

- 5.1 A Risk Management questionnaire has been completed and indicates this report does not require a risk assessment because the issues covered are not significant in terms of risk or have previously been considered.

### **6 Resource Implications**

- 6.1 There are no resource implications of the proposed decision save the costs of the by-election which, by necessity would be required in any event to fill the vacancy.

### **7 Legal Implications**

- 7.1 Approval of the recommendation means that notice of the vacancy can lawfully be published. The notice will publicise the vacancy and advise of the electoral arrangements for filling the vacancy.

7.2 Public notice of the vacancy must be given immediately after a declaration of vacancy.

## 8 Equality Issues

8.1 No potential for discrimination or adverse impact on those with protected characteristics is identified.

## 9 Other Issues

9.1 No other issues are identified.

## Conclusion and reasons for recommendation

9.2 In order that notice of a vacancy, which has arisen as a result of Kevin Farrer ceasing to be a Councillor, can be published it is recommended that the vacancy is noted and formally declared.

<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:	None	File Ref:	N/A
Report of the Head of Legal and Democratic Services			
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Report to:	General Purposes Committee	Date:	18 March 2020