

Surrey Heath Borough Council
Council
25 October 2023

Waiver of Six Month Councillor Attendance Rule

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Wards Affected: n/a

Summary and purpose

To consider a request to authorise an absence from attendance at meetings in accordance with Section 85 (1) of the Local Government Act 1972.

Recommendation

The Council is advised to RESOLVE that, in accordance with Section 85 (1) of the Local Government Act 1972, Councillor Julie Hoad's non-attendance at meetings of the Council be approved until 31 May 2024 on the grounds of continued ill health.

1. Background and Supporting Information

- 1.1 Section 85 (1) of the Local Government Act 1972 requires a member of a Local Authority to attend at least one meeting of that Authority within a six month consecutive period in order to avoid being disqualified as a Councillor. This requirement can be waived and the time limit extended if any failure to attend was due to a reason approved by the Authority, in advance of the six month period expiring.
- 1.2 Members will be aware that Councillor Hoad has recently experienced a period of ill health. She last attended a meeting in person on 17 May 2023.
- 1.3 Councillor Hoad has attended almost all expected committee and working group meetings virtually since her last attendance at a meeting in person and has taken an active role in supporting residents with casework in her ward. However, the legal position on whether virtual attendance at meetings is counted for the purpose of attendance at meetings under Section 85 (1) of the Act has not been tested and it is therefore considered prudent to seek the agreement of the Council to approve permission for her absence.

2. Reasons for Recommendation

- 2.1 The decision to waive the six month attendance rule can only be made by the Full Council. Furthermore, Councillor Hoad's reason for absence is considered to be a reasonable basis for the waiving of the six month rule.

3. Proposal and Alternative Options

- 3.1 The Council is advised to resolve that the requirements of Section 85 (1) of the Local Government Act 1972 be waived for Councillor Hoad.
- 3.2 Alternatively, the Council could chose not to approve the extension but this is not recommended in these circumstances. This option would result in a casual vacancy.

4. Contribution to the Council's Five Year Strategy

- 4.1 No matters arising.

5. Resource Implications

- 5.1 No matters arising.

6. Section 151 Officer Comments:

- 6.1 No matters arising.

7. Legal and Governance Issues

- 7.1 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 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." Attendance can be at any committee or sub-committee, or any joint committee, joint board or other body where the functions of the Authority are discharged or who were appointed to advise the Authority on any matter relating to the discharge of their functions.
- 7.2 Once a councillor loses office through failure to attend for the 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.
- 7.3 If the Council decided not to approve an extension and Councillor Hoad was unable to attend a meeting within the remainder of the 6 month period, which expires on 17 November 2023, a casual vacancy would arise.

7.4 A decision to waive the six month rule can only be made by the Full Council.

8. Monitoring Officer Comments:

8.1 The legal considerations of this decision are set out elsewhere in this report.

9. Other Considerations and Impacts

Environment and Climate Change

9.1 No matters arising.

Equalities and Human Rights

9.2 No matters arising.

Risk Management

9.3 No matters arising.

Community Engagement

9.4 No matters arising.

Annexes

None

Background Papers

[Section 85 \(1\) of the Local Government Act 1972](#)