

**HERTFORDSHIRE COUNTY COUNCIL**

**COUNTY COUNCIL  
TUESDAY, 19 MAY 2020 AT 10.00 A.M.**

Agenda Item No.

**5**

**LOCAL GOVERNMENT ACT 1972 – SECTION 85: PUBLIC HEALTH  
EMERGENCY RELATING TO COVID 19 (CORONAVIRUS) - FAILURE BY  
MEMBERS TO ATTEND MEETINGS**

*Report of the Chief Legal Officer*

Report author: Richard Stevens, Corporate Solicitor (Tel: 01992 555576)

Executive Member: David Williams, Leader of the Council

**1. Purpose of report**

- 1.1 To request Council to approve, as a reason for failure to attend a meeting of the Council, or any committee or sub-committee of the Council, that a member (any member) fails to attend as a result of being affected by Covid 19 (Coronavirus) as more fully set out in the recommendations at 3 below.

**2. Summary**

- 2.1 Under Section 85 of the Local Government Act 1972 (“Section 85”), 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 (or the Cabinet or any committee or sub-committee 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.
- 2.2 In view of the current public health emergency relating to Covid 19, which has now been declared a pandemic by the World Health Organisation, there is a possibility that a member or members may not be or feel able to attend a meeting or meetings.
- 2.3 In order to prevent a member or members from ceasing to be (a) member/s of the Council in such circumstances, the Council is being requested to approve such a failure to attend as a reason for non-attendance for the purposes of Section 85. In order to be reasonably certain that the duration of the current emergency is covered, the Council is being recommended to give this approval in relation to all members until and including the Annual Meeting of the Council in 2021.

### **3. Recommendations**

1. That the Council approves, in relation to each and every member of the Council, as a reason for a failure to attend any meeting of the Council, the Cabinet or any committee or sub-committee of the Council (“a relevant meeting”), by any member of the Council during the relevant period in the circumstances set out in 2. below, as a reason for non-attendance for the purposes of Section 85 of the Local Government Act 1972.
2. The circumstances referred to in 1. above are that a member fails to attend a relevant meeting because the member:
  - has contracted or been infected by Covid 19;
  - has tested positive for Covid 19;
  - is suspected of having or suspects that he/she has contracted or been infected by Covid 19;
  - has concerns that they may contract or become infected with Covid 19;
  - is in quarantine or self-isolating (whether or not on the instruction or advice of any public authority or medical professional) in relation to Covid 19;
  - the member is unable to attend, or decides not to attend, the relevant meeting because of any prohibition, instruction, action or advice of any public authority in relation to Covid 19 and relating to attendance at, or travel to or from, the relevant meeting (or meetings or gatherings generally which would include the relevant meeting);
  - is unable to attend the relevant meeting because the meeting is cancelled or postponed for a reason relating to Covid 19.
3. The relevant period for the purposes of 1 and 2 above is the period from the passing of a resolution to approve the above recommendations until the end of the Annual Meeting of the Council in 2021.

### **4. Financial Considerations**

- 4.1 There are no financial implications to this report.

### **5. Equality Implications**

- 5.1 When considering proposals placed before Members it is important that they are fully aware of, and have themselves rigorously considered, the equalities implications of the decision that they are taking.
- 5.2 Rigorous consideration will ensure that proper appreciation of any potential impact of that decision on the County Council’s statutory obligations under the Public Sector Equality Duty. As a minimum this

requires decision makers to read and carefully consider the content of any Equalities Impact Assessment (EqIA) produced by officers.

- 5.3 The Equality Act 2010 requires the Council when exercising its functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and other conduct prohibited under the Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics under the Equality Act 2010 are age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief, sex and sexual orientation.
- 5.4 An Equality Impact Assessment (EqIA) has not been undertaken but there are not considered to be any equalities implications arising from this report.

Legal Review: Richard Stevens, Corporate Solicitor (Tel: 01992 555576)  
Financial Review: Sian Dixon, Senior Accountant, Resources

### Background Information

Section 85, Local Government Act 1972  
[www.legislation.gov.uk/ukpga/1972/70/section/85](http://www.legislation.gov.uk/ukpga/1972/70/section/85)