

North Tyneside Council

Report to Council

Date: 20 July 2023

Title: Request for Dispensation pursuant to Section 85 of the Local Government Act 1972

Portfolio(s): Elected Mayor

Cabinet Member(s): Dame Norma Redfearn, Elected Mayor

Report from Service Area: Governance

Responsible Officer: Allison Mitchell
Head of Governance

Tel:
(0191) 643 5720

Wards affected: Howdon

PART 1

1.1 Executive Summary:

The Chief Executive has received a request for a dispensation to be considered in respect of Councillor John Hunter, under Section 85(1) of the Local Government Act 1972, based on medical grounds. This report recommends that full Council agrees such a dispensation for Councillor Hunter for a period up to and including 31 January 2024.

1.2 Recommendation(s):

It is recommended that Council:

- (1) Agrees a grant of dispensation for Councillor John Hunter pursuant to Section 85(1) of the Local Government Act 1972, for a period up to and including 31 January 2024, and approves Councillor Hunter's non-

attendance at meetings of the Authority in that period on medical grounds;
and

(2)Agrees that the best wishes of the Council are conveyed to Councillor Hunter at this time.

1.3 Forward Plan:

Twenty eight days notice of this report has been given and it first appeared on the Forward Plan that was published on 23 June 2023.

1.4 Council Plan and Policy Framework

This report does not align directly to any of the priorities in the Council Plan, but is required to ensure compliance with the relevant legislation (Local Government Act 1972) in relation to a request for a dispensation which has been received.

1.5 Information:

Background

- 1.5.1 Section 85(1) of the Local Government Act 1972 requires each elected member of a local authority to attend at least one meeting of the Authority within a six month consecutive period, in order to continue as an elected member of that Authority. Should an elected member fail throughout a period of six consecutive months from the date of his or her last attendance to attend any meeting of the Authority, he or 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.
- 1.5.2 Under this legislation the Authority is able to approve a period of non-attendance for an elected member where there are reasons for so doing. This approval must be granted by the Authority before the expiry of the six month consecutive period since the elected member's last attendance at any meeting of the Authority, in order to ensure that the elected member in question does not cease to be a member of the Authority. Approval cannot be conferred retrospectively, and must be agreed within the six month period since the member's last attendance at a meeting.
- 1.5.3 Councillor John Hunter (one of three councillors representing Howdon ward) has unfortunately had a period of ill-health and due to medical reasons was

last able to attend a meeting of the Authority on 20 March 2023 (Housing Sub Committee).

- 1.5.4 The Chief Executive has received a request for full Council to consider approving an extension to the usual six month attendance rule for Councillor Hunter, enabling Councillor Hunter to remain in office until he is able to resume normal duties.
- 1.5.5 Council can only consider this request before the end of the relevant six month period, i.e. by 19 September 2023.
- 1.5.6 Accordingly, the meeting of full Council on 20 July 2023 is the only scheduled Council meeting within the six month period at which approval can be sought for an extension of the time limit for non-attendance at meetings of the Authority. If approval to any extension is not therefore agreed at this meeting, Councillor Hunter would, under Section 85(1) of the Local Government Act 1972, cease office as a North Tyneside Councillor after 19 September 2023 if he is unable to attend a meeting of the Authority before that date.
- 1.5.7 It is therefore recommended that further to the request made to the Chief Executive, Council approves a grant of dispensation for Councillor Hunter pursuant to Section 85(1) of the Local Government Act 1972, for a period up to and including 31 January 2024, on medical grounds. This would not prevent Councillor Hunter from returning to meetings at any time before that date should his health allow.

1.6 Decision options:

The following decision options are available for consideration by Council:

Option 1

Council agrees to approve a dispensation on medical grounds under Section 85(1) of the Local Government Act 1972 for Councillor Hunter, approving Councillor Hunter's non-attendance at meetings of the Authority for a period up to and including 31 January 2024.

Option 2

Council does not agree to grant such a dispensation to Councillor Hunter for non-attendance at meetings of the Authority.

Option 1 is the recommended option.

1.7 Reasons for recommended option:

Option 1 is recommended for the following reasons:

- (a) It is considered that Councillor Hunter's reasons for being unable to attend a meeting of the Authority at the current time are valid and proper, relating to medical grounds. The recommendations set out in this report seek to manage the specific circumstances which have arisen in a fair way, and ensure compliance with the requirements of the above-referenced legislation
- (b) Agreement to a dispensation as outlined above would cease the automatic consequence of the legislation (i.e. Councillor Hunter ceasing to be a councillor after 19 September 2023), should for medical reasons Councillor Hunter not be able to attend a meeting of the Authority on or before 19 September 2023
- (c) Should Council decide not to approve a dispensation for Councillor Hunter, he would cease to be a member of the Authority after 19 September 2023 and a vacancy would arise on the Council's membership.

1.8 Appendices:

None

1.9 Contact officers:

Allison Mitchell, Head of Governance (telephone (0191) 643 5720)

1.10 Background information:

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

- (1) Local Government Act 1972, Section 85(1) – *Vacation of office by failure to attend meetings* (see [here](#))

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

There are no direct financial implications to the proposals set out in this report. Agreement of the recommendations would not incur any additional costs to the Authority.

2.2 Legal

The requirements of Section 85 of the Local Government Act 1972 are set out in the main body of this report. The decision to give approval to a Councillor's non-attendance at meetings of the Authority under section 85(1) of the 1972 Act is a matter for full Council.

2.3 Consultation/community engagement

The request for a dispensation for the elected member has been discussed with the member's Group Leader, who is supportive of the proposal.

2.4 Human rights

There are no specific human rights implications arising from this report.

2.5 Equalities and diversity

There are no specific equalities and diversity implications arising from this report.

2.6 Risk management

Should the dispensation as set out in this report be agreed, the elected member's ward councillor duties will continue to be undertaken by his fellow Howdon councillors. The Committees to which the elected member has been appointed in 2023/24 have sufficient members to ensure that business can continue to be discharged during the temporary absence of one member.

Should the elected member lose office, through failure to attend for a six month period, the disqualification cannot be overcome by the member subsequently resuming attendance nor can retrospective approval be sought for an extension in time. This would result in a vacancy on the Council which may consequently result in increased administration and cost.

2.7 Crime and disorder

There are no crime and disorder implications arising from this report.

2.8 Environment and sustainability

There are no environment and sustainability implications arising from this report.

PART 3 – SIGN OFF

- Chief Executive ☐ X
- Director(s) of Service ☐ X
- Mayor/Cabinet Member(s) ☐ X
- Chief Finance Officer ☐ X
- Monitoring Officer ☐ X
- Assistant Chief Executive ☐ X