

North Tyneside Council

Report to Council

Date: 18 January 2024

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

Portfolio(s): Elected Mayor	Cabinet Member(s): Dame Norma Redfearn DBE
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Report from Service Area: Governance
Responsible Officer: Jon Ritchie, Director of Resources
Wards affected: Howdon

PART 1

1.1 Executive Summary:

On 12 July 2023 full Council agreed a dispensation in respect of Councillor John Hunter, under Section 85(1) of the Local Government Act 1972, on the grounds of his ill-health. The dispensation agreed was for a period up to and including 31 January 2024. The Chief Executive has since received a further request for a dispensation to be considered for Councillor Hunter, again on the grounds of his ill-health. This report recommends that full Council agrees a further dispensation for Councillor Hunter for a period up to 7 May 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 7 May 2024, and approves Councillor Hunter's non-attendance at meetings of the Authority during that period on medical grounds; and

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

1.3 Forward Plan:

This report was included on the Forward Plan published on 8 December 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 (“the 1972 Act”) requires each elected member of a local authority should attend at least one meeting of the Authority within a six month consecutive period, in order to continue in their role as an elected member of the Authority. Should a 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 provisions of the 1972 Act, the Authority, through full Council, is able to approve a period of non-attendance for an elected member where there are appropriate reasons for so doing. This approval must be granted by the Authority before the expiry of the six-month consecutive period since the member’s last attendance at any meeting of the Authority, in order to ensure that the member in question does not cease to be a member of the Authority. Approval cannot be conferred retrospectively.
- 1.5.3 Councillor John Hunter (one of three members representing the Howdon ward) unfortunately remains in ill-health. At the meeting of full Council on 12 July 2023 Council agreed a dispensation under Section 85(1) of the 1972 Act for Councillor Hunter for a period up to and including 31 January 2024 on the basis of his ill-health.

- 1.5.4 As stated, Councillor Hunter remains unwell and the Chief Executive has received a request for full Council to consider approving a further dispensation for Councillor Hunter, enabling Councillor Hunter to remain in office until he is able to resume normal duties.
- 1.5.5 Full Council must consider this request before the expiry of the existing dispensation agreed by full Council on 12 July 2023. Accordingly, full Council must determine this request for a further dispensation in relation to Councillor Hunter by 30 January 2024.
- 1.5.6 The meeting of full Council on 18 January 2024 is the only scheduled meeting of Council before the expiry of the current dispensation. If approval to a further dispensation is not agreed, Councillor Hunter would, in accordance with the provisions of Section 85(1) of the 1972 Act, cease to be a member of the Authority after 31 January 2024.
- 1.5.7 It is therefore recommended that following the request made to the Chief Executive, Council approves a further dispensation for Councillor Hunter pursuant to Section 85(1) of the 1972 Act, for a period up to 7 May 2024 (the last day of Councillor Hunter's current term of office), on the basis of his ill-health. Any dispensation that may be agreed by Council 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 further dispensation on medical grounds under Section 85(1) of the Local Government Act 1972 for Councillor John Hunter, approving his non-attendance at meetings of the Authority for a period up to and including the last day of Councillor Hunter's current term of office (7 May 2024).

Option 2

Council does not agree to grant a further dispensation to Councillor John Hunter and thus agreeing to his non-attendance at meetings of the Authority for the period of the dispensation.

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 entirely 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 1972 Act.
- (b) Agreement to a dispensation as outlined above would stop the automatic consequence of Councillor Hunter's non-attendance at meetings of the Authority, namely, his ceasing to be a member of the Authority after 31 January 2024, should he fail to attend a meeting of the Authority by that date.
- (c) Should Council decide not to approve a dispensation for Councillor Hunter, and if he remains unable to attend a meeting before 31 January 2024, he will cease to be a member of the Authority after that date.

1.8 Appendices:

None

1.9 Contact officers:

Allison Mitchell, Head of Governance (telephone (0191) 643 5724)

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 agreement to grant a dispensation under the provisions 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 Committee to which Councillor Hunter has been appointed in the 2023/24 municipal year has sufficient members to ensure that the business of the Committee can continue to be discharged during the temporary absence of one of its members.

Should Councillor Hunter lose office, through his failure to attend a meeting for a six month period, the disqualification cannot be overcome by the member subsequently resuming attendance, nor can retrospective approval be given by full Council.

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