

**COUNCIL
12 NOVEMBER 2020**

PART 1 – PUBLIC DOCUMENT

**TITLE OF REPORT: RESOLUTION TO EXTEND THE 6 MONTH RULE – SECTION 85
LOCAL GOVERNMENT ACT 1972**

REPORT OF THE DEMOCRATIC SERVICES MANAGER

EXECUTIVE MEMBER: THE LEADER OF COUNCIL

COUNCIL PRIORITY: RESPOND TO CHALLENGES TO THE ENVIRONMENT

1. EXECUTIVE SUMMARY

- 1.1 To consider an extension of the six-month rule for Councillor Kay Tart, having regard to the circumstances for absence from meetings.

2. RECOMMENDATIONS

- 2.1. That Council approves an extension of the six-month rule for Councillor Kay Tart, on ill-health grounds, for an additional six-month period, until 9 July 2021.
- 2.2. That the power to grant an extension, on health grounds, be delegated to the Democratic Services Manager, in consultation with Group Leaders during the coronavirus pandemic, such delegation to last for the term of the pandemic, or to cease if not renewed by Council / or under emergency powers in July 2021.

3. REASONS FOR RECOMMENDATIONS

- 3.1. Section 85 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 his last attendance to attend any meeting of the authority, he 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'*. Whilst the Local Government Association has been lobbying for this to be dealt with (potentially under the Coronavirus Bill 2020), this has so far not been included.
- 3.2. The recommendation at 2.1 is therefore required to enable Cllr Tart to continue to serve as a District Councillor. The recommendation at 2.2 is to cover the continuing pandemic emergency.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1. The alternative option would be to not agree to the extension which would create a vacancy within the Hitchin Walsworth ward. However, is not considered an option as Cllr Tart wishes to continue to serve as a District Councillor.
- 4.2. It should be noted that by virtue of the Coronavirus Act 2020 and The Local Government and Police and Crime Commissioner (Coronavirus)(Postponement of Elections and Referendums)(England and Wales) Regulations 2020 in the event of a casual vacancy the by-election would not take place, and the vacancy held open until the by-election did indeed take place. The 2020 regulations provide for any by-elections to take place on the date for the Ordinary Election of Councillors – currently due to be held on Thursday 6 May 2021. (However, although indications remain unlikely, this date may be brought forward or deferred by the Government depending upon the circumstances).

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

- 5.1. There is no duty to consult on this matter and therefore no consultation with Members or external organisations has taken place.

6. FORWARD PLAN

- 6.1 This report does not contain a recommendation on a key Executive decision and has therefore not been referred to in the Forward Plan.

7. BACKGROUND

- 7.1. Councillor Kay Tart has been unable to attend meetings recently on ill-health grounds. The last meeting attended was the Full Council meeting on 9 July 2020. Therefore, the six-month period will expire on 9 January 2021, unless an extension is approved (the Full Council meeting on 21 January 2021 would be too late to consider this extension). Since that meeting Councillor Tart has experienced ill-health and is under ongoing medical care. Under the circumstances, it is requested that Council approve an extension of the six-month rule for Councillor Tart on ill-health grounds.

8. RELEVANT CONSIDERATIONS

- 8.1. The information relevant to the decision has been detailed throughout the report. Should Council be minded to grant an extension for an additional six months it would not prevent Councillor Tart returning to meetings at any time, should health allow.

9. LEGAL IMPLICATIONS

- 9.1. Council is required to determine this matter as per Paragraph 1.2.1 of the Council's Constitution:

'The Council is comprised of forty nine Councillors each elected for a four year period. Elections are held in three out of four years with a third of the seats contested in each year. Each Councillor is democratically accountable to the residents of their electoral ward as well as all of those who live in the District of North Hertfordshire. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those that did not vote for them. Councillors who do not attend at least one Council or Committee meeting in a six-month period cease to be a Councillor, unless their absence is approved by Full Council within that period'.

- 9.2. 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 his last attendance to attend any meeting of the authority, he 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'.*
- 9.3. Section 85 (2) of the Local Government Act 1972 provides guidance as to attendance at a meeting. *'Attendance as a member at a meeting of any committee or sub-committee of the authority, or at a meeting of any joint committee, joint board or other body by whom for the time being any of the functions of the authority are being discharged, or who were appointed to advise the authority on any matter relating to the discharge of their functions, and attendance as representative of the authority at a meeting of any body of persons, shall be deemed for the purposes of subsection (1) above to be attendance at a meeting of the authority'.*

10. FINANCIAL IMPLICATIONS

- 10.1. There are no financial implications arising from the report. However, should the extension not be granted could result in a by-election next year and therefore the costs would be incurred by the Authority.

11. RISK IMPLICATIONS

- 11.1. None contained within this report.

12. EQUALITIES IMPLICATIONS

- 12.1. In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 12.2. The six-month extension to a term of office provides an opportunity for Cllr Tart to continue in the role as District Councillor when health improves.

13. SOCIAL VALUE IMPLICATIONS

- 13.1. The Social Value Act and "go local" requirements do not apply to this report.

14. ENVIRONMENTAL IMPLICATIONS

14.1. There are no known Environmental impacts or requirements that apply to this report.

15. HUMAN RESOURCE IMPLICATIONS

15.1 The Committee, Member and Scrutiny Services Manager monitors attendance and notifies Group Leaders when a Member has not attended a meeting for 4 consecutive months.

16. APPENDICES

16.1 None.

17. CONTACT OFFICERS

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18. BACKGROUND PAPERS

18.1 None.