

## **Committee: Council**

**Date: 19 April 2023**

### **Subject: Local Government Act 1972, Section 85 (1): Approval of Absence**

Lead officer: Louise Round, Managing Director, South London Legal Partnership

Lead member: Councillor Ross Garrod, Leader of the Council

Contact officer: Amy Dumitrescu, Democracy Services Manager

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#### **Recommendations:**

That, in the event that Councillor Dennis Pearce is unable to attend a meeting of the authority before 13 September 2023, approval is given to the absence for reason of ill-health.

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#### **1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1. This report asks the Council to acknowledge the possibility of Councillor Dennis Pearce's non-attendance at meetings of Merton Council for the period 18 November 2022 – 13 September 2023 and to approve the absence for reason of ill-health.

#### **2 DETAILS**

- 2.1. Due to ill-health Councillor Dennis Pearce has not to date been able to attend a meeting of the authority since 17 November 2022 when he chaired a meeting of the Borough Plan Advisory Committee. The Council is required to consider this matter prior to the expiration of the six month period up to 17 May 2023.
- 2.2. Under section 85 of the Local Government Act 1972, if a Councillor does not attend any relevant meeting for a period of six months, they automatically cease to be a member of the Council unless before the expiry of that period the authority has approved the reason for that absence.
- 2.3. It is not currently possible at this stage to say whether Councillor Pearce will be able to attend any meetings in person within the near future so Council is being asked agree that if he is unable for reasons of ill health to attend another meeting between now and the full Council meeting on 13 September, such absence will be authorised. Whilst remote attendance is possible, such attendance does not count for the purposes of section 85.
- 2.4. It is noted that whilst Councillor Pearce will attend meetings wherever possible either in the Council Chamber or remotely, in the event this is not possible this approval will come into force.
- 2.5. The legal provision is detailed at paragraph 7.1.

#### **3 ALTERNATIVE OPTIONS**

- 3.1. It is the responsibility of the Council to consider this matter and agree the reason for absence.

#### **4 CONSULTATION UNDERTAKEN OR PROPOSED**

4.1. None for the purpose of this report.

## **5 TIMETABLE**

5.1. Council is required to consider this matter prior to the expiration of the six month period detailed in this report.

## **6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

6.1. None for the purpose of this report.

## **7 LEGAL AND STATUTORY IMPLICATIONS**

7.1. Section 85(1) of the Local Government Act 1972 (LGA) prescribes:

“...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.”

7.2. Whilst the power to approve a reason for failure to attend a meeting (which in effect allows a Councillor a leave of absence) is not one which is required by law to be reserved to Full Council, due to the timetable of upcoming meetings it was thought Council to be the most appropriate body to consider this matter.

## **8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

8.1. It is understood that Councillor Pearce has been apprised of the position as detailed in this report.

## **9 CRIME AND DISORDER IMPLICATIONS**

9.1. None for the purpose of this report.

## **10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

10.1. None for the purpose of this report.

## **11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**

- None

## **12 BACKGROUND PAPERS - NONE**