



**RECORD OF DECISION TAKEN UNDER DELEGATED
AUTHORITY
(Not a Key Decision)**

Date of Decision: 16 April 2020

**Executive Decision or 'Other Decision' to be
published?:**

Yes

TITLE: Section 85(1) of the Local Government Act 1975 – Councillor Gail Hodson

DECISION:

That Councillor Gail Hodson's non-attendance at Council meetings since 16 October 2019 be approved for the purposes of Section 85(1) of the Local Government Act 1972.

AUTHORITY:

Constitution 4.2: Proper Officer Provisions and Scheme of Delegation to Chief Officers
Issue Date 04.11.19

4.21 To take any action on behalf of the Council, following consultation with the Leader and relevant Portfolio Holder or the Chairman of the appropriate committee, in cases of urgency requiring immediate decisions, and where it would be unreasonable or impractical to convene a meeting.

Constitution 4.2A: Scheme of Delegation to Chief Officers etc Chief Operating Officer
Issue Date 04.11.19

A. DELEGATIONS TO THE CHIEF OPERATING OFFICER

1. To take any action, including the incurring of expenditure, in connection with an emergency or disaster in the Borough.

REASONS FOR DECISION

As set out below

1.0 BACKGROUND

1.1 Councillor Gail Hodson last attended a Council meeting on 16 October 2019. By section 85(1) of the Local Government Act 1972, if a member of a local authority fails to attend any meeting of a local authority for a six month consecutive period, his (or her) office becomes vacant, unless that non-attendance is dispensed with prior to expiry of the six month period.

1.2 In accordance with the Council's procedures, the Council's Democratic Services Manager, Mrs Jacky Denning, e-mailed Councillor Hodson on 26 February 2020

to remind her of the provisions of the section 85(1) of the 1972 Act. No reply was received and no subsequent attendance was recorded. A further reminder was sent to Councillor Hodson and the Council Leader advised. A (Full) Council meeting, (where all council members are summoned to attend) was due to be held on 1 April 2020. However, due to the outbreak of coronavirus the meeting was cancelled.

- 1.3 On 15 April 2020 Councillor Hodson advised Mrs Denning that she intended to attend the Council meeting on 1 April 2020 but, due to its cancellation, had been unable to. She also advised that, for personal reasons, she was unable to attend the other Council meetings in respect of which she was due to attend and had instead sent her apologies and arranged for a substitute member to attend. She wishes to remain as a Councillor and wishes consideration to be given to her stated reasons for her recent non-attendance at Council meetings.

2.0 CONSIDERATIONS

- 2.1 I note that the next scheduled Full Council meeting is the AGM on 20 May 2020. Furthermore, I note it is not possible to seek a retrospective dispensation for non-attendance of a councillor. In addition, I consider it is not reasonable or practical to convene an extraordinary meeting of Full Council.
- 2.2 Counsel's advice (appendix 1) has been received from Ms Jacqueline Lean of Landmark Chambers, London. Ms Lean is a leading Local Government barrister. At paragraph 7 of her advice, Ms Lean advises that in light of (1) the imminent expiry of the six month period which would result in Cllr Hodson ceasing to be a member of the authority; and (2) the fact that it would be impractical to convene a meeting to consider a dispensation in the time available, this would be a case where the powers conferred by paragraph 4.21 could be used by me to decide whether a dispensation for non-attendance should be granted.
- 2.3 I have carefully considered the reasons given by Councillor Hodson for her non-attendance. In accordance with the terms of my delegation I have consulted with Leader and Mayor. I have also sought the views of the Leader of Conservative Party and the Leader of the One West Lancashire Party. Their representations are set out in full at Appendix 2. I have taken these views carefully into consideration.
- 2.4 I have also noted the relevant legislative provisions – specifically, s.81(1) LGA 1972, and s.60 of the Coronavirus Act 2020 (extension of terms for councillors, with elections scheduled for May 2020 being cancelled) and note that Councillor Hodson, would, notwithstanding consideration of section 85(1) of the Local Government Act 1972 continue in office until May 2021.
- 2.5 Councillor Gail Hodson represents Ashurst Ward, together with two other members. She was first elected into office in May 2012. If her absence were not approved then she would cease to be a member of the authority and the Council would be required to declare her office to be vacant. However, due to the coronavirus outbreak no by-election can currently be held and it is uncertain when a by-election might be able to take place. I am mindful that Ashurst Ward would, under those circumstances, be under represented for an uncertain period of time.

2.6 I am satisfied with Councillor Gail Hodson's explanation that she had intended to attend the Council meeting on 1 April 2020 but, due to its cancellation due to coronavirus had been unable to.

2.7 I note that Councillor Hodson advises that, for personal reasons, she was unable to attend Council meetings prior to that meeting but note, with some caution, that no further explanation is given. However, on balance, I consider Councillor Hodson's non-attendance at Council meetings since 16 October 2019 should be approved for the purposes of Section 85(1) of the Local Government Act 1972 for the reasons set out above.

2.8 The wording of Section 85(1) is such that is not possible, in granting approval for absence, to caveat that approval on the basis that Councillor Hodson attends a particular meeting or is given a "trial period" of less than 6 months. However, if Councillor Hodson were to not attend a Council meeting (which would include any remote meetings organised by the Council) for a further period of 6 months then she would cease to be a member (unless that absence were approved by the Council).

3.0 ALTERNATIVE OPTIONS CONSIDERED (IF ANY):

3.1 See paragraph 2 above

4.0 FINANCIAL AND RESOURCE IMPLICATIONS

4.1 There are no financial and resource implications that are material to this decision.

5.0 SUSTAINABILITY IMPLICATIONS

5.1 There are no significant sustainability impacts associated with this decision.

6.0 EQUALITY IMPACT ASSESSMENT

6.1 This decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders, therefore no Equality Impact Assessment is required.

7.0 BACKGROUND DOCUMENTS (For executive decisions and 'Other Decisions that require publishing)

7.1 The following background documents (as defined in the 2012 and 2014 Regulations) have been relied on to a material extent in making this Decision:

None

8.0 HEALTH AND WELLBEING IMPLICATIONS

8.1 There are no health and wellbeing implications arising from this report.

9.0 FOR FURTHER INFORMATION PLEASE CONTACT:

**Contact Officer: Legal and Democratic Services Manager - Matt Jones
Directorate & Service: Transformation and Resources – Corporate Services –
Legal and Democratic Services
Telephone No: 01695 585025**

DATE OF DECISION:

.....16 April 2020.....

Decision Taker: Chief Operating Officer, Jacqui Sinnott-Lacey

Signature:via e-mail.....

**In Consultation with: The Leader, Councillor Ian Moran & the Mayor, Councillor
Gaynor Owen**

Signature:via e-mail.....

**The views of the Leader of Conservative Party and the Leader of the One West
Lancashire Party were also sought.**

NOTES

(Executive Decisions)

- 1. ANY CONFLICT OF INTEREST DECLARED BY THE PORTFOLIO HOLDER (Only
required where decisions taken in consultation with):**

(Executive Decisions)

- 2. IF CONFLICT OF INTEREST EXISTS, DETAILS OF DISPENSATION GRANTED BY
THE HEAD OF THE PAID SERVICE:**

(‘Other Decisions’)

- 3. THE NAMES OF ANY COUNCILLOR WHO HAS DECLARED A CONFLICT OF
INTEREST IN RELATION TO THE DECISION**
none

Appendices

Appendix 1 - Note of Advice - Ms Jacqueline Lean (Counsel) of Landmark Chambers,
London.

Appendix 2 – Consultation responses of the Leader, Councillor Ian Moran & the Mayor,
Councillor Gaynor Owen and the views of the Leader of Conservative Party and the
Leader of the One West Lancashire Party.