

Committee: Standards and General Purposes Committee

Date: 19 July 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

Recommendations:

That, in the event that Councillor Dennis Pearce is unable to attend a meeting of the authority before 13 September – 13 March 2024, approval is given to the absence for reason of ill-health.

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

1.1. This report asks the Committee to acknowledge the possibility of Councillor Dennis Pearce's non-attendance at meetings of Merton Council for the period 13 September – 13 March 2024 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 was required to consider this matter prior to the expiration of the six month period up to 17 May 2023.

2.2. The Council agreed at its meeting on 19 April 2023 that the absence of Councillor Dennis Pearce was approved for the period until 13 September 2023. The Committee is requested to consider whether a further shorter period of absence is appropriate to be approved in this case.

2.3. 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. There is no prescribed time limit to how long the approved absence can be for.

2.4. 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 the Committee is being asked agree that if he is unable for reasons of ill health to attend another meeting between now and the 13 March 2024, such absence will be authorised. Whilst remote attendance is possible, such attendance does not count for the purposes of section 85.

2.5. 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.

2.6. 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. Councillor Pearce has been advised of the content of this report.

5 TIMETABLE

5.1. Council is required to consider this matter prior to the expiration of the 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. 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. The terms of reference for the Standards and General Purposes Committee include the power “to determine all other matters which are non-executive functions and which are not otherwise reserved to Council are not within the terms of reference of any other committee and which are not delegated to an officer”. This is sufficiently wide to allow this Committee to agree the recommendations without reference to full Council.

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

- [Council Report April 2023](#)