

NORTH YORKSHIRE COUNCIL

19 July 2023

Application for exemption to the 6 month rule on attendance

Report of the Assistant Chief Executive Legal and Democratic Services and Monitoring Officer

1.0 PURPOSE OF THE REPORT

- 1.1 For Council to consider an application for an exemption from the 6 month attendance rule for Councillor Dave Whitfield.

2.0 BACKGROUND

- 2.1 The Local Government Act 1972 requires an elected member of a local authority to attend a meeting of their Council at least once in a period of six consecutive months. Where an elected member has failed to do so, then the automatic vacation of office provisions set out in section 85 (1) of the Local Government Act 1972 apply:

“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”.

- 2.2 A meeting of the authority is subsequently defined in section 85 (2) as follows:

“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”.

- 2.3 If the 6 month rule and automatic vacation of office applies, then a by-election follows.

3.0 REQUEST FOR AN EXEMPTION FROM THE 6 MONTH ATTENDANCE REQUIREMENT

- 3.1 Councillor Dave Whitfield’s last recorded attendance was 24 February 2023. He has been unable to attend meetings due to ill health. Six months from his last attendance would be 23 August 2023. At present, it is unlikely that he will be able to attend a committee meeting of the Council before that time.

- 3.2 Councillor Dave Whitfield and Councillor Kevin Foster, Leader of the Green Group, have requested that an exemption from the six month rule is granted by Council. This would then mean that Councillor Dave Whitfield would not have to attend a committee meeting of the Council until 23 February 2024. It is anticipated that Councillor Dave Whitfield will be able to return to his duties as a Councillor before that date.

4.0 FINANCIAL IMPLICATIONS

- 4.1 If the 6 month rule and automatic vacation of office applies, then a by-election would be held which would incur a cost to the Council.

5.0 LEGAL IMPLICATIONS

5.1 The legal implications are set out in the main body of the report.

6.0 EQUALITIES IMPLICATIONS

6.1 There are no significant equality implications in considering this request.

7.0 CLIMATE CHANGE IMPLICATIONS

7.1 There are no climate change implications arising from this report.

8.0 REASONS FOR RECOMMENDATIONS

8.1 It is within the remit of Council to consider requests for exemptions from the 6 month attendance rule.

9.0 RECOMMENDATION

9.1 That Council considers the application for an exemption from the 6 month attendance rule for Councillor Dave Whitfield.

Barry Khan
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Background Documents:

The Local Government Act 1972, section 85 - [Local Government Act 1972 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1972/24/section/85)

Note: Members are invited to contact the author in advance of the meeting with any detailed queries or questions.