

Appendix 1

Code of Practice **Application of the 6 Month Rule and Notification Processes and other** **means of vacating office**

1. Context

- 1.1 The LGHA 1989 S.1 sets out specific reasons around disqualification from office for Council Members. Those Members who qualify for office in accordance with statutory rules relating to elections, whilst they still qualify, will continue to serve for their term of office unless they:
- Are employed by the Local Authority
 - Are subject to bankruptcy orders;
 - Have, within 5 years before being elected, or at any time since being elected, been convicted in the UK, Channel Island, or Isle of Man of any offense and have not received a sentence of imprisonment (suspended or not) for a period of not less than three months without the option of a fine;
 - Are disqualified under Part II of the Representation of the Peoples Act 83;
 - are employed under the direction of various local authority committee, boards or the greater London Authority; or
 - are a teacher in a school maintained by the local authority.
- 1.2 Members can also vacate office where they choose to do so through resignation or sadly, when they die during their term of office.
- 1.3 Members cannot be administratively removed or suspended from office.
- 1.4 The LGA 1972 S.85 expressly provides that where a Council Member fails throughout a period of six consecutive months from the date of their last attendance to attend any meeting of the Authority, then, subject to certain exceptions, they cease to be a Member of the Authority.
- 1.5 When a Member ceases to hold office, the Monitoring Officer is required by law to declare the office vacant under S.86 of the LGA 1972. This is in all cases apart from where a failure to attend meetings was for a reason approved before the expiration of the 6 month period (dispensation).
- 1.6 In the case of Executive or Cabinet Members, a further requirement is made by law for attendance at Executive or Cabinet Meetings within a 6 month period.

2. Application of the Law by this Authority

- 2.1 When a Member ceases to hold office in all circumstances as detailed above, the Monitoring Officer is required by law to declare the office vacant under S.86 of the LGA 1972.

2.2 This will also result in the issue of an Election notice which will be triggered at the same time in all circumstances, apart from where a Member dies. There will be a delay in this case in sympathy for the family and as a respectful act of the Authority.

2.3 It is every Member's legal responsibility to comply with the law.

In respect of the 6 Month Rule:

2.4 There is no requirement within the Law for an officer of the relevant authority to notify the Member concerned of the approach of the expiration of the 6 month or a dispensation period. This is because an assumption cannot be made that the Member will default.

2.5 The interpretation of 'any meeting of the Authority' is loosely defined in law, and this Authority clarifies that the following apply:

- Meetings of Council, Committees or Sub Committees (either as an appointed, substitute or visiting Member)
- Officially established Working Groups (of which they are a Member)
- Meeting of an Outside Body for which the Member is appointed by Council
- In all circumstances, the Member must be recorded as present.

2.4 The interpretation of 'six consecutive months' is defined in law, and this Authority clarifies that the following applies:

- The six months' commence from the day following the last attendance
- The six months' do not include any dispensation period, and begins before and continue after this period.

2.5 Dispensations can be requested directly by the Councillor concerned to the Monitoring Officer or her Deputy, stating reasons for requiring a period of absence.

3. Dispensation Process

3.1 A request for dispensation, or extension for dispensation is made in writing to the Monitoring Officer or her Deputy from the Member concerned.

3.2 This request must be made 6 weeks in advance of the expiration of the 6 month or granted dispensation period. This is to ensure that Council are offered the opportunity to consider the dispensation request at a formal meeting.

3.3 The Governance Manager will submit a dispensation request report on the Member's behalf to the next ordinary meeting of Council if it takes place within the 6 week period. Where it does not, the authority has delegated power for the Monitoring Officer to either authorise a short term dispensation

to the date of the next Council meeting or to call an Extraordinary meeting of Council to consider the request. Is this last bit right?

- 3.4 Where a request is submitted after the 6 week window has expired, the Monitoring Officer is delegated responsibility to consider dispensations in consultation with the Chair of the Council and make a decision which applies until the next meeting of Council can consider it.
- 3.5 Where the Monitoring Officer makes a decision in regard to the application of this process, this decision will be published in line with the Delegated Decision protocol. It will be exempt in line with The Local Government (Access to Information) Act 1985, Local Government Act 1972, Part 1, Schedule 12A.

4. Monitoring of Attendance

- 4.1 The Mod.Gov system monitors attendance for all Members where they are marked as present at Meetings of the Authority. This will not include any Outside Body attendances.
- 4.2 Members are able to view their attendance statistics through the public pages on the website.
- 4.3 Group Leaders may request information on attendance statistics from the Governance Team.
- 4.4 The Governance Team do monitor attendance, however they will not approach a Member in regard to expiry of the 6 month rule. This is the Member's legal responsibility and this cannot be shouldered by the Local Authority.

5. When a Member Ceases to be a Member any longer

- 5.1 The Monitoring Officer will notify the Council of the vacancy and notify the Member concerned (or their family at an appropriate time following a death in service).
- 5.2 The Electoral Services Manager will issue the vacancy notice.
- 5.3 The Governance Manager will stop any allowances paid from the date of vacating office. ICT equipment will be recovered and access to Council systems stopped.

- 5.4 The Members details will be sensitively removed from the Council website and systems where it relates to any ongoing matters. Historical information will remain in accordance with the 6 year retention requirements.
- 5.5 Where a Member sadly dies in office, the civic flag will be raised to half-mast in accordance with the flag raising protocol, and acts of sympathy from the authority will be enacted.